No. 1322

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT.

WILLIAM PARDY AND ALBERTINE HASLER,

Appellants,

vs.

J. D. HOOKER COMPANY (A CORPORATION),

Appellee.

TRANSCRIPT OF RECORD.

Upon Appeal from the United States Circuit Court for the Southern District of California.

THE FILMER BROS. CO. PRINT, 424 SANSOME ST., S. F.

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INDEX.

In the United States Circuit Court of Appeals, for the Ninth Circuit.

WILLIAM PARDY et al.,
Appellants,
vs.
J. D. HOOKER COMPANY,
Appellee.

Stipulation as to Printing Record.

It is hereby stipulated that in printing the transcript on appeal in the above-entitled action the clerk shall omit from said printed transcript and shall not print the following portions of said written transcript, but either party shall have the right to refer to the written transcript as to said omitted matters, to wit:

All matter found on the following pages of said written transcript, to wit:

II, III, IV, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXI, XXII, 1, 8, 9, 10, 17, 18, 19, 20, 21, 24, 25, 26, 51, 77, 78, 79, 80, 81, 82, 83, 100, 126, 135, 140, 146, 178, 179, 180, 181, 182, 183, 184, 217, 220, 221, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233; also all matter found on Complainants'

Exhibits 5 to 29, inclusive, which is included in the heading of said exhibits before the date thereof and being the following matter: "P. O. Box 913, Telephone 530, Los Angeles Pipe Manufactory, J. D. Hooker & Co., Manufacturers of Riveted Sheet Iron Water Pipe and Dealers in Wrought Gas and Water Pipe and Pipe Fittings, works San Fernando & R. R. Sts., and Magdalena Avenue," said matter occurring on pages 186, 187, 188, 189, 191, 192, 193, 194, 195, 196, 197, 199, 200, 201, 204, 206, 208, 210, 211, 212, 214, 216, 219, and all matter occurring on the following pages after the word "(Endorsed)" on each of said pages, to wit: 185, 186, 187, 188, 190, 191, 192, 193, 194, 195, 196, 198, 199, 200, 202, 203, 205, 207, 209, 210, 211, 213, 215, 216, 218 and 219.

Dated March 30, '06.

G. E. HARPHAM and

HAZARD & HARPHAM.

Solicitors for Appellants.

J. W. McKINLEY,

Solicitor for Appellee.

[Endorsed]: 1322. United States Circuit Court of Appeals. William Pardy et al., vs. J. D. Hooker Co. Stipulation Relating to Printing Transcript. Filed Apr. 2, 1906. F. D. Monckton, Clerk.

United States Circuit Court for the Southern District of California, Southern Division Thereof.

IN EQUITY.

WILLIAM PARDY and ALBERTINE HASLER,
Complainants,
vs.
J. D. HOOKER COMPANY (a Corporation),
Defendant.

Bill of Complaint.

To the Honorable Judges of the Circuit Court of the United States, in and for the Southern District of California.

1.

William Pardy and Albertine Hasler, citizens of the State of California, bring this their bill of complaint against the J. D. Hooker Company, a corporation organized under the laws of the State of California, and having a place of business at Los Angeles, in the county of Los Angeles, State of California, and say:

2.

That prior to the 20th day of August, 1889, one George Pardy was the true, original and first inventor of certain new and useful improvements in riveting machines not known or used by others in this country, and not

patented or described in any printed publication in this or any foreign country before his invention or discovery thereof, and not in public use or on sale for more than two years prior to the hereinafter mentioned application for a patent therefor, and which had not been abandoned prior to said application hereafter mentioned.

3.

That after the making of said invention of said riveting machines said George Pardy died testate at the city and county of San Francisco, State of California, and at the time of his death was a resident thereof. That after the death of said George Pardy such proceedings were had in the Superior Court of the City and County of San Francisco, State of California, in the Matter of the Estate of said George Pardy, that by a decree of said Court, duly made and given, the last will of said George Pardy was duly admitted to probate and letters testamentary in accordance with the provisions of said will were duly issued to William Pardy, the executor of said last will and testament of said George Pardy, deceased, a duly authenticated copy of said will, together with a copy of the decree admitting the same to probate is ready to be produced in court, together with a copy of said letters testamentary. That by the provisions of the will of said George Pardy, after devising certain specific property in said will mentioned, and which did not include the said invention hereinbefore referred to, he bequeathed and devised the remainder of his property which included the said invention here-

inbefore referred to to William Pardy one-half, to John Pardy, one-eighth, and to Albertine Hasler, three-eighths.

4.

That while said letters testamentary were in full force and effect and after said William Pardy had duly qualified thereunder, and had become the duly qualified and acting executor of the last will and testament of said George Pardy, deceased, and on the 16th day of December, 1889, the said William Pardy, as such executor did duly and regularly file in the patent office of the United States an application to the Commissioner of Patents, praying for the issuance of letters patent of the United States for the said invention of said George Pardy, and after proceedings duly and regularly had and taken in the matter, to wit, on the 19th day of August, 1890, letters patent of the United States bearing date on that day and numbered 434,677, were granted, issued and delivered to said William Pardy, as executor of the estate of George Pardy, deceased, for the benefit and use of the devisees under the will of said George Pardy, deceased, whereby there was granted to them, their heirs and assigns for the full term of 17 years from said last-mentioned date, the exclusive right to make, use and vend said invention throughout the United States of America, and the Territories thereof, as by said letters patent ready to be produced in court will fully and at large appear.

5.

That in the matter of the estate of said George Pardy,

deceased, on the 26th day of February, 1890, a decree of distribution was duly made and given by said Superior Court of the city and county of San Francisco, whereby there was distributed to William Pardy an undivided one-half interest, in the aforesaid invention and the letters patent to be obtained therefor, and to John Pardy a one-eighth interest, and to Albertine Hasler a three-eighths interest, a duly certified copy of which said decree of distribution is ready to be produced in court.

6.

That on the second day of May, 1903, John Pardy duly sold, assigned and transferred unto William Pardy all his right, title and interest in and to the aforementioned letters patent, 434,677, bearing date August 19th, 1890, for a pipe riveting machine, together with all rights of action which had accrued to him by reason of the infringement of said letters patent, which said assignment is hereby ready to be produced in court, and ever since said day, said William Pardy has been and now is the owner of an undivided five-eighths interest in and to the said letters patent before mentioned, and of the right to recover damages for the infringement thereof, and since the said decree of distribution said Albertine Hasler has been and now is the owner of the other undivided three-eighths of said letters patent.

7.

That said letters patent 434,677 were issued in due form of law under the seal of the patent office of the United States, signed by the Secretary of the Interior,

and countersigned by the Commissioner of Patents of the United States, and prior to the issuance thereof, all proceedings were had and taken which were required by law to be had and taken prior to the issuance of the letters patent for new and useful inventions.

8.

That on or about the 13th day of February, 1895, the defendant, the J. D. Hooker Company, was organized under the laws of the State of California, and ever since said time has been and now is a corporation organized under the laws of the State of California, and having its principal place of business at the city of Los Angeles, county of Los Angeles, and State of California.

9.

Your orators further show on information and belief that the defendant, well knowing the premises, and without the license or consent of your orators, and since the 13th day of February, 1895, and before the commencement of this suit within the Southern District of California, and in the Southern Division thereof, has unlawfully and wrongfully used one or more pipe riveting machines each containing and embracing the said invention described and patented in and by the said letters patent sued on herein and has infringed upon the exclusive rights secured to your orators by said letters patent, and has made and realized large profits and advantages therefrom, but to what amount your orators are ignorant and cannot set forth, and they pray that

the defendant may be required to make a disclosure of all such gains and profits.

10.

And your orators further show that they have requested the defendant to cease and desist from infringing upon the rights secured to them by said letters patent, but the defendant refused, and neglected to comply with said request and is now using or causing to be used one or more pipe riveting machines containing said patented invention and threatens to continue so to do, and unless restrained by this Court will continue to make use and sell the same.

11.

Forasmuch as your orators can have no adequate relief except in this court, and to the end therefore that the defendant may, if it can, show why your orators should not have the relief prayed and may make a full disclosure and discovery, but not upon oath, an answer under oath being hereby expressly waived, of all matters aforesaid and according to the best of its knowledge, information and belief, full, true, direct and perfect answer make to the matters hereinbefore stated and charged, and especially to the following number specific interrogatories:

1. Whether since February 13th, 1895, the defendant has made or used or sold, or caused to be made or used or sold anywhere in the United States of America, any pipe riveting machines containing or employing the said

improvement or operating in the manner described and claimed in the said letters patent; and if yes, how many of such pipe riveting machines it has so made, or used, or sold?

2. If the defendant answers that it has made or used, or sold pipe riveting machines containing said patented improvement, state the sizes of said machines, to whom sold, and at what price and when, also state how much pipe the defendant has manufactured by the use of each of said machines, and what profit it has made by the use of each of said machines.

12.

And your orators pray that the defendant may be decreed to account for and pay over to your orators the income or profits thus unlawfully derived from the violation of your orators' rights as aforesaid, and that said amount be trebled and that it be restrained from any further violation of said rights, and that your Honors may grant a writ of injunction issuing out of and under the seal of this Honorable Court, perpetually and enjoining and restraining said defendant, its clerks, agents and workmen from any further construction, sale, or use in any manner of any pipe riveting machines containing said patent improvement or any part thereof in violation of your orators as aforesaid.

That your Honors, upon rendering the decree above prayed for may assess or cause to be assessed in addition to the profits to be accounted for by the defendant as aforesaid, a sum equal to three times the amount of

such assessment under the circumstances of the willful and unjust infringement by defendant as herein set forth.

May it please your Honors to grant unto your orators not only a writ of injunction comformable to the prayers of this bill, but also a writ of subpoena of the United States of America, directed to said J. D. Hooker Company, commanding it on a day certain to appear and answer unto this bill of complaint and to abide by and perform such order and decree in the premises as to the Court shall seem proper by the principles of equity and good conscience.

And your orators will ever pray.

WM. PARDY,
ALBERTINE HASLER,
Complainants.

HAZARD & HARPHAM,
Solicitors for Complainants.

G. E. HARPHAM,
Of Counsel.

United States Circuit Court for the Southern District of California, Southern Division Thereof.

IN EQUITY.

WILLIAM PARDY and ALBERTINE HASLER,
Complainants,
vs.
J. D. HOOKER COMPANY (a Corporation),
Defendant.

Answer.

Answer of the J. D. Hooker Company to the bill of complaint of William Pardy and Albertine Hasler.

This defendant, now and at all times saving and reserving unto itself all benefit and advantage of exception to the many errors, uncertainties, imperfections and insufficiencies in the complainants' said bill of complaint contained, for answer thereto, or to so much and such parts thereof as this defendant is advised it is material or necessary for it to make answer to, answering, says.

I.

This defendant admits that on or about the 3d day of February, 1895, it was organized under the laws of the State of California, and ever since said time has been and now is a corporation organized under the laws of the State of California, and having its principal place

of business at the city of Los Angeles, county of Los Angeles, and State of California.

II.

That this defendant does not know, and has not been informed, save by said bill of complaint, whether George Pardy, the individual named in paragraph III of said bill of complaint, died intestate at the city and county of San Francisco, State of California, and at the time of his death was a resident thereof.

And does not know and has not been informed, except by said bill of complaint, whether, after the death of said George Pardy, the alleged will of said Pardy was by decree of the Superior Court of the City and County of San Francisco, State of California, duly admitted to probate, and letters testamentary, in accordance with the provisions of said alleged will, were issued to said William Pardy, the executor of said alleged will.

And does not know and has not been informed, except by said bill of complaint, whether by the provisions of said alleged will, George Pardy, after devising certain specific property in said alleged will mentioned, and which did not include said alleged invention in said bill of complaint before mentioned, bequeathed and devised the remainder of his property, including said alleged invention, to William Pardy, one-half, to John Pardy one-eighth, and to Albertine Hasler three-eighths.

And it therefore leaves the complainants to make such proof thereof as they may be advised is material and as they may be able to make.

III.

That this defendant does not know and has not been informed, except by said bill of complaint, whether, while said alleged letters testamentary were in full force and effect, and after said William Pardy had duly qualified thereunder and become the duly qualified and acting executor of said alleged will of George Pardy, deceased, and on the 16th day of December, 1889, the said William Pardy, as such alleged executor did duly and regularly file in the patent office of the United States, an application to the Commissioner of Patents, praying for the issuance of letters patent of the United States for the said alleged invention of said George Pardy, and after proceedings duly and regularly had and taken in the matter, to wit, on the 19th day of August, 1890, letters patent of the United States, bearing date on that day and numbered 434,677, were granted, issued and delivered to said William Pardy, as executor of the estate of George Pardy, deceased, for the benefit and use of the devisees under the will of said George Pardy, deceased, whereby there was granted to them, their heirs and assigns, for the full term of 17 years from said last-mentioned date, the exclusive right to make, use and vend said alleged invention throughout the United States of America, and the territories thereof; and it therefore leaves the complainants to make such proof thereof as they may be advised is material, and as they may be able to make.

IV.

That this defendant does not know, and has not been informed, except by said bill of complaint, whether any decree of distribution was duly made and given by said Superior Court of the City and County of San Francisco, whereby there was distributed to said William Pardy an undivided one-half interest in the aforesaid alleged invention and the letters patent to be obtained therefor, and to John Pardy a one-eighth interest, and to Albertine Hasler a three-eighths interest; and it therefore leaves the complainants to make such proof as they may be advised is material, and as they may be able to make.

V.

That this defendant does not know and is not informed, except by said bill of complaint, whether said John Pardy sold, assigned and transferred to William Pardy all his alleged right, title and interest in and to the aforementioned letters patent 434,677 for a pipe riveting machine, together with all rights of action which had accrued to him by reason of the infringement of said letters patent; nor whether since said alleged assignment, said William Pardy has been and now is the owner of an undivided five-eighths interest, and said Albertine Hasler has been and now is the owner of the other undivided three-eighths, of said letters patent; and it therefore leaves the complainants to make such proof thereof as they may be advised is material, and as they may be able to make.

VI.

This defendant denies that the said George Pardy was the true, original and first inventor of the alleged invention of improvements in riveting machines; and states upon information and belief that prior to the death of said George Pardy, to wit, in or about the year 1888, the said George Pardy was employed as a mechanic by J. D. Hooker, at the city of Los Angeles aforesaid, to construct experimental machines embodying certain improvements in riveting machines invented by said J. D. Hooker, and then and there divulged and described by said Hooker to said Pardy. That it was then and there agreed by and between them that said J. D. Hooker should pay for all materials necessary for the construction of said machines, and should pay the said George Pardy for his services in embodying said invention in said machines, and that in consideration thereof, the said J. D. Hooker should become and be entitled to all the benefits of said services of said Pardy and become and be exclusive owner of the said experimental machines. That, thereafter and in pursuance of said agreement, the said George Pardy did construct experimental machines embodying said invention of said J. D. Hooker. That upon the completion thereof the said J. D. Hooker suggested certain material additions thereto, and changes therein, some of which were made by said George Pardy and some by others. That such experimental machines were made by or under the direction of said Pardy, all embodying the said invention, additions and changes, made by said J. D. Hooker.

That said J. D. Hooker paid for the materials necessary for the construction of said experimental machines and for the said additions thereto; and paid the said George Pardy in full for all his said services in connection with the making and altering of said experimental machines, and said J. D. Hooker thereupon became and was and now is entitled to all the benefits derived from said services, and became and was and now is the sole owner of said experimental machines. That said William Pardy, acting as executor of said George Pardy, deceased, seeking surreptitiously to appropriate said invention, or so much thereof as is embraced in the claims of the patent sued on, unjustly and unlawfully filed in the patent office of the United States an application for said patent, wherein he falsely alleged the said George Pardy to be the inventor thereof, and thereafter he surreptitiously and unjustly obtained the patent sued on for that which was in fact invented by said J. D. Hooker, who was using reasonable diligence in adapting and perfecting said invention.

VII.

This defendant, further answering said bill of complaint, says that subsequent to the making of said machines, as hereinbefore in paragraph VI hereof set forth, said J. D. Hooker, with the full knowledge of said George Pardy, had several other machines, similar to said first machines, constructed, and also one or more machines embodying some of the features of said machine; and continuously used all of said machines, with the full knowledge of, and without any objection by,

the said George Pardy. That after the incorporation of this defendant, said J. D. Hooker gave express permission to the defendant to use the said machines, and this defendant has, from time to time used the same; but it is unable to state how much piping it has made therewith.

And this defendant, further answering said bill of complaint, says that the machines hereinbefore mentioned, are the only such machines used by said defendant, and it has not caused or authorized the making or use of any other such machines.

VIII.

This defendant further denies that any gains or profits of any sort whatever have accrued, or have been received by it, to which the complainants are entitled, or that they are entitled to any gains or profits, by reason of said alleged infringement, or that any gains and profits would have accrued to the complainants but for said alleged infringement; and also denies that they have any claim whatever to damages by reason of such alleged infringement or any other infringement, or that because of the alleged wilful nature of the alleged infringement, the damages be increased threefold.

And this defendant denies that the complainants have any cause whatever to invoke this Honorable Court to compel the defendant, by a decree, to account for and pay over to the complainants any income or profits, or any sum whatever by reason of said alleged infringement; or to enjoin the said defendant from the further

construction, sale or use if any pipe riverting machines containing said patented improvements or any part thereof in violation of the alleged rights of said complainants.

Wherefore, the defendant having answered fully to the said bill of complaint, in so far as it is advised, the same is material and necessary to be answered unto, deny that the complainants have any just claim to the relief prayed in the same bill of complaint, or to any relief whatever; it prays the same advantage of its aforesaid answer as if it had pleaded and demurred to the said bill of complaint, and prays to be hence dismissed with its reasonable charges in this behalf most wrongfully sustained.

J. D. HOOKER COMPANY,
By JNO. D. HOOKER,
President.
J. W. McKINLEY,
Solicitor and Counsel for Defendant.

In the Circuit Court of the United States, for the Southern District of California, Southern Division Thereof.

IN EQUITY.

WILLIAM PARDY and ALBERTINE HASLER,

Complainants,

vs.

J. D. HOOKER COMPANY (a Corporation),

Defendant.

No. 1125

Decree.

This cause having on the 14th day of December, 1905, come on to be heard upon the pleadings, proceedings and proofs herein filed on behalf of both parties, and after hearing Hazard & Harpham, Esqs., counsel for complainants, and J. W. McKinley, Esq., and Alexander Van Cott, Esq., counsel for defendant, and after due proceedings, it is upon consideration:

Ordered, adjudged and decreed as follows:

I.

That George Pardy, deceased, named in United States patent letters No. 434,677 set forth in the bill herein, was not the first true and original inventor of the new and useful improvement in riveting machines described and named in said letters patent.

II.

That the said letters patent No. 434,677 set forth in the bill herein issued to William Pardy as executor of the last will and testament of George Pardy, deceased, are void in law.

III.

That the complainant's bill be and is hereby dismissed.

It is further ordered, adjudged and decreed that the defendant have and recover from the complainants its reasonable costs and disbursements in this cause, taxed in the sum of $75.50 dollars, and that execution issue therefor.

OLIN WELLBORN,
Judge.

Decree entered and recorded December 1st, 1905.

WM. M. VAN DYKE,
Clerk.

By Chas. N. Williams,
Deputy.

[Endorsed]: No. 1125. In the Circuit Court of the United States, Southern District of California, Southern Division. In Equity. William Pardy et al., Complainants, vs. J. D. Hooker Company. Final Decree. Filed Dec. 21, 1905. Wm. M. Van Dyke, Clerk. Chas. N. Williams, Deputy.

In the Circuit Court of the United States, Southern District of California, Southern Division.

WILLIAM PARDY et al.,
Complainants,
vs.
J. D. HOOKER COMPANY (a Corporation),
Defendants.
No. 1125.

Depositions.

Be it remembered, that pursuant to the stipulation hereunto annexed, and on the fourth day of February, 1905, at the office of Frank L. Owen, Esq., rooms 804 and 805 Mills Building, in the city and county of San Francisco, State of California, before me, Frank L. Owen, a notary public in and for said city and county, duly appointed to administer oaths, etc., personally appeared the complainants in the above-entitled cause and their counsel, G. E. Harpham, Esq., also Purcell Rowe, Esq., representing J. W. McKinley, Esq., counsel for the defendants.

Mr. Rowe stated that he was in receipt of a telegram from Judge McKinley to the effect that he was detained by a landslide on the Southern Pacific Railroad, and was prevented from being present at this hour; that Judge McKinley requested, in said telegram, that the taking of the depositions be postponed until Monday, February 6, at ten o'clock A. M.

By consent of counsel for complainants a continuance was granted as requested.

The witnesses were instructed to be present without further notice.

Monday, February 6, 1905, 10 A. M.

Pursuant to adjournment had February 4th, 1905, the several parties met on the above date at the office of Frank L. Owen, Mills Building, rooms 804 and 805.

Present, the complainants and their counsel, G. E. Harpham, Esq.; also J. W. McKinley, Esq., representing the defendant.

It is stipulated that the testimony of the several witnesses be taken down in shorthand by Brainard C. Brown, and by him reduced to typewriting.

Deposition of WILLIAM PARDY, witness called on behalf of complainants, sworn, examined, testified as follows:

(By Mr. HARPHAM.)

Q. 1. Mr. Pardy, were you acquainted with George Pardy in his lifetime?

A. Certainly; he was my brother.

Q. 2. You are the William Pardy, are you, who is mentioned as the executor of George Pardy, deceased?

A. I am.

Q. 3. As executor of his estate did you go through his papers to see what papers he left?

A. I did.

Q. 4. Will you please look at this bank book of Wells,

(Deposition of William Pardy.)

Fargo & Co.'s bank in account with George Pardy? Did you find this book among his papers? A. I did.

Q. 5. You are acquainted with your deceased brother's handwriting, are you? A. Yes, sir.

Q. 6. Please look at this check, dated May 11, 1883, Number 6.

A. I recognize that as a check drawn by my brother. It is his own handwriting.

Q. 7. Please look at this stub and state in whose handwriting the stubs in that book are.

A. This is a check-book of Wells-Fargo's bank, with the stubs corresponding to the checks.

Q. 8. You have examined these stubs, have you? In whose handwriting do those stubs appear to have been made? A. In my brother George's.

Mr. HARPHAM.—I will now offer in evidence this bank-book and these bank stubs showing checks to have been drawn on the same bank, and this check No. 6, of date May 11, 1888.

Mr. McKINLEY.—The defendant objects to the introduction of the papers offered upon the ground that they are irrelevant and immaterial, not tending to establish any issue in this case; incompetent in that they are simply the declarations of the decedent in his own interest, and not the best evidence. (The bank-book is marked Exhibit No. 1; the stub-book is marked Exhibit No. 2, and check is marked Exhibit No. 3.)

(Deposition of William Pardy.)

Mr. HARPHAM.—It is understood that no objection is to be raised to the manner of proving the account of George Pardy with Wells, Fargo & Co's. bank?

Mr. McKINLEY.—Yes, in so far as that I stipulate that it shall have the same effect as if the officers of the bank were present, testifying to the matters which are contained on their books, purporting to be duplicated here.

Q. 9. (By Mr. HARPHAM.) This is a book of original entry.

Mr. McKINLEY.—Yes, it is the book of the bank, as far as that is concerned.

Q. 9. (By Mr. HARPHAM.) Mr. Pardy, did you have any conversation with Mr. J. D. Hooker in reference to this pipe riverting machine? If so, state when you had that conversation, and what it was.

A. According to my recollection the conversation took place some time in September following my brother's death in 1889, as executor of the estate, and in my endeavor to settle with Mr. Hooker the questions of Mr. Hooker's relations with my brother, George Pardy came up—

Mr. McKINLEY.—I object to the witness giving conclusions. I am perfectly willing that he should testify to anything that occurred. But I object to any conclusions that happened between them. I move to strike out the statement that he made an endeavor to settle.

(Deposition of William Pardy.)

Q. 10. (By Mr. HARPHAM.) At any rate you had a meeting with him?

The WITNESS.—(To Mr. McKINLEY.) Do you object to the word "settlement?"

Mr. McKINLEY.—I object to any statement as to any conclusions. From my standpoint all you can do is to go on and state the actual personal occurrences with Mr. Hooker.

Q. 11. (By Mr. HARPHAM.) You state that you did have an interview with him in September following the death of your brother in 1889? Was anything said about this pipe riveting machine at that interview?

A. Yes.

Q. 12. State what was said.

A. Well, I have got to repeat what I have already said. Or else the words will stand hardly understandable.

Q. 13. Go ahead and state what was said, and then you can make the explanations afterwards, as to what led up to it.

A. In the controversy arising I stated to Mr. Hooker that there was two ways of settlement with the estate; either to pay a fair and proper compensation to it for the riveting machine spoken of, or to allow the estate to take out a patent upon it.

Mr. McKINLEY.—The defendant moves to strike out the statement of the witness that those matters were

(Deposition of William Pardy.)

said in the controversy arising, upon the ground that it is a conclusion of the witness and incompetent.

Q. 14. (By Mr. HARPHAM.) What reply did Mr. Hooker make in relation to the settlement that you have just detailed, if any?

A. He replied, "You can take out the patent."

Q. 15. What led up to this conversation between you?

Mr. McKINLEY.—That is objected to as calling for a conclusion of the witness, not calling for a statement of facts.

Mr. HARPHAM.—Then I will change the question.

Q. 16. State how you happened to have this conversation with Mr. Hooker?

(The same objection.)

A. Shall I state it?

Q. 17. Yes.

A. From George Pardy, while living, and from certain letters in the possession of the estate, written to him by J. D. Hooker, I understood that the question—

Mr. McKINLEY.—The defendant objects to the statement of the witness as incompetent and hearsay; also moves to strike out what has already been stated as a statement of his conclusion, as hearsay and incompetent; also as a statement of the contents of writing without any evidence of the writing being lost.

(Deposition of William Pardy.)

Q. 18. (By Mr. HARPHAM.) Go ahead. By the letters you mean the letters written by J. D. Hooker?

A. Yes, George Pardy. (Continuing.) —of the future possession and control of the riveting machine was unsettled—

Mr. McKINLEY.—(Interrupting.) Defendant moves to strike out the statement made since the last objection on the ground that it is immaterial; that it is an endeavor by the witness to explain a written document and to state the contents thereof as hearsay and not the best evidence.

Q. 19. (By Mr. HARPHAM.) Go on.

A. (Continuing.)—and wishing to determine the matter I made the proposition that he should control it for a fair monied compensation, or the estate should be allowed to take out the patent upon the machine without his opposition.

Q. 20. Where was Mr. Hooker at this time?

A. In room 19 of the Safe Deposit Building, corner of California and Montgomerty street, San Francisco.

Q. 21. Where are the letters that you have referred to as being letters written by J. D. Hooker to your brother, George Pardy?

A. In the possession of my attorneys.

Q. 22. What did you do with them?

A. The letters?

Q. 23. Yes.

(Deposition of William Pardy.)

A. Why, I mailed them to the firm of Hazard & Harpham, Los Angeles, California.

Mr. HARPHAM.—These letters that the witness refers to were all introduced in evidence and are now in the possession of the Special Examiner at Los Angeles, California, who took the testimony at Los Angeles.

Mr. McKINLEY.—I admit that that is the fact, upon the statement of Mr. Harpham.

Q. 24. (By Mr. HARPHAM.) And you say that it was from those letters that you got this understanding that the question of the future control of the patent riveting machine was an open question between your brother at the time of his death, and Mr. Hooker?

Mr. McKINLEY.—Defendant objects to that question as immaterial and irrelevant; calling for a conclusion of the witness; calling for hearsay testimony; calling for an interpretation of a letter, and incompetent.

A. Yes, I learned this from the letters and from my brother before his death.

Mr. McKINLEY.—Defendant moves to strike out the whole statement as incompetent and stating a conclusion of the witness, and as an interpretation of the letters, and hearsay; and also specially moves to strike out the statement that the witness learned it from his brother, as incompetent, as the conclusion of the witness and as hearsay, and as a self-serving declaration of the decedent.

(Deposition of William Pardy.)

Q. 25. (By Mr. HARPHAM.) Mr. Pardy, will you please look at this document and state in whose handwriting it is?

A. This document is in the handwriting of my brother, George Pardy.

Mr. HARPHAM.—The document referred to is entitled "Specification of a riveting machine." It is offered in evidence, to be attached to the deposition.

(Marked Exhibit No. 4.)

Mr. McKINLEY.—The defendant objects to the introduction of the patent on the ground that it is irrelevant and immaterial, does not tend to establish any issue in the case; no proper foundation laid; incompetent.

Q. 26. (By Mr. HARPHAM.) In looking over the papers left by your brother did you find any sketches of this pipe riveting machine among the papers that he left? A. I did.

Q. 27. Look at this sketch and state whether or not you have ever seen that before. (Showing.)

A. I have. As executor of the estate it came into my possession.

Mr. HARPHAM.—I offer that in evidence, to be attached to the depositions.

(The same objection.)

(Marked Exhibit No. 5.)

Q. 27. Look at this letter and state in whose handwriting it is?

(Deposition of William Pardy.)

A. That is in my brother's handwriting.

Mr. HARPHAM.—I offer this letter in evidence, to be attached to the depositions.

Mr. McKINLEY.—Defendant objects to it as irrelevant and immaterial, not tending to establish any issue in this case; incompetent, and a self-serving declaration of the decedent.

(Marked Exhibit No. 6.)

Cross-examination.

(By Mr. McKINLEY.)

XQ. 1. Mr. Pardy, when did you first meet J. D. Hooker?

A. It is not in my recollection that I met J. D. Hooker prior to our meeting in room 19, Safe Deposit Building, San Francisco.

XQ. 2. How long was he there on that occasion?

A. An hour or more.

XQ. 3. Did you ever discuss the matter with him upon any other occasion? A. No.

Q. 4. Did you have any correspondence with him?

A. I can't remember.

XQ. 5. You have not now in your possession any letters from Mr. Hooker or any copies of letters written by you to him?

A. It has passed my recollection.

XQ. 6. You do not now know of the existence of any

(Deposition of William Pardy.)

letters written by Mr. Hooker to you, or of copies of letters written by you to Mr. Hooker?

A. On what subject?

XQ. 7. In connection with this matter; in connection with this machine or patent.

A. I do not.

Q. 8. When did you first learn that he was operating a machine in his works other than the ones put in during your brother's lifetime?

A. I can't give you the specific date.

XQ. 9. About how soon after you applied for a patent was it? I will put the question in this way: when did you first hear that Mr. Hooker had a third machine in his works, and was using it, fixing the date with reference to the time that you applied for a patent, as near as you can? About what year was it, Mr. Pardy?

A. I don't want to guess at it.

XQ. 10. I will ask this question: When did you first learn that J. D. Hooker or the J. D. Hooker Company was using a third machine of the kind described in the patent here?

A. About the latter part of 1893; previous to November, 1893.

XQ. 11. Who was present at the conversation of Mr. Hooker which you have detailed here, Mr. Pardy?

A. Miss A. Hasler.

XQ. 12. Was anyone else present?

A. Not to my recollection.

WM. PARDY.

(Deposition of Albertine Hasler.)

Subscribed and sworn to before me this 13th day of February, 1905.

[Seal] FRANK L. OWEN,
Notary Public in and for the City and County of San Francisco, State of California.

Deposition of ALBERTINE HASLER, a witness called on behalf of complainant, sworn, examined, testified as follows:

(By Mr. HARPHAM.)

Q. 1. Miss Hasler, you are one of the complainants in this case, are you? A. Yes.

Q. 2. Did you ever meet Mr. J. D. Hooker in relation to this pipe riveting machine? If so, when and where?

A. Yes; when he came to see Mr. Pardy, I was sorting papers belonging to the estate, and Mr. Hooker came in at that time.

Q. 3. Were you present at the time that Mr. William Pardy and Mr. Hooker had a conference in the Safe Deposit building? A. Yes, I was.

Q. 4. What was said by Mr. Pardy and what was said by Mr. Hooker, as near as you recollect it? What was said at that conversation relating to this pipe riveting machine matter?

A. Mr. Pardy said to Mr. Hooker that there were two ways of settling this; one was for Mr. Hooker to pay to the estate of George Pardy a certain amount for his labor, invention, etc., and the other was that we

(Deposition of Albertine Hasler.)

would take out a patent; and Mr. Hooker replied, "Get the patent."

Q. 5. Please look at this check marked Complainant's Exhibit No. 3 and state whether or not you have ever seen that check before?

A. Yes, I have seen it before.

Q. 6. When did you see that check?

A. When I had a conversation myself, with Mr. Hooker, I showed him this check and I showed him some bills that Mr. George Pardy had paid for construction of the first machine.

Mr. McKINLEY.—Defendant moves to strike out the statement of the witness that Pardy had paid certain bills, on the ground that it is a conclusion and hearsay.

Q. 7. (By Mr. HARPHAM.) In whose handwriting is that statement? (Showing.)

A. That is in my handwriting.

Q. 8. Is that a statement of the bills that you had at that time, at the time that you had this conversation with Mr. Hooker?

(Objected to as incompetent and immaterial and as calling for hearsay testimony.)

A. Yes.

Q. 9. Did you have any conversation with Mr. Hooker, yourself, in relation to this statement of bills paid by Mr. Pardy on Mr. Hooker's account in relation to this check for $100?

(Deposition of Albertine Hasler.)

A. I showed him the bills that had been paid by Mr. Pardy, and I showed him that check, and Mr. Hooker said he didn't know anything about the bills. He didn't say anything about the check.

Q. 10. In whose handwriting is that pencil memorandum on that check? (Showing witness exhibit No. 3.)

A. I don't know. Maybe Mr. Pardy's. I know Mr. Pardy let him have that money.

Mr McKINLEY.—Defendant moves to strike out that last statement as not responsive, hearsay, and a conclusion of the witness.

Q. 11. (By Mr. HARPHAM.) Did you say that pencil memorandum on the back of the check, "borrowed money," was in the handwriting of George Pardy?

A. No; I dare say it is in Mr. William Pardy's. I didn't know who write it. I didn't notice that.

Q. 12. Now, you state that you know that Mr. George Pardy loaned Mr. Hooker this money. How do you know?

A. Well, when Mr. Hooker used to come to the city Mr. Pardy always was here, and he told me of it, and he said that time that "Mr. Hooker was short and I loaned him a hundred dollars."

Mr. McKINLEY.—Defendant moves to strike out the statement of the witness as irrelevant and immaterial, a conclusion and hearsay; and also the previous statement, on the ground that it is not shown to be based

(Deposition of Albertine Hasler.)

on the knowledge of the witness; that the statement rests upon hearsay.

Q. 13. Is there anything else, Miss Hasler, that you know relating to this matter, from any conversation that you had with Mr. Hooker about that?

A. Well, he told me that he paid $150 to Mr. Pardy for his services, but I knew he did not, and so I shook my head.

Mr. McKINLEY.—Defendant moves to strike out the answer of the witness wherein she states that she knew that he did not pay the $150, as hearsay, incompetent and immaterial.

Q. 14. (By Mr. HARPHAM.) Any other statement that Mr. Hooker may have made to you in relation to the matter, is what I asked for. Not any statements that Mr George Pardy made, but simply the statements of Mr. Hooker, himself.

A. Well, later on in the conversation he said that "Mr. Pardy wanted nothing—absolutely nothing." And that was his suggestion.

Cross-examination.

XQ. 1. (By Mr. McKINLEY.) Your statement as to knowledge with regard to Mr. Hooker making monthly payments to Mr. Pardy is based upon a statement of Mr. Pardy, to you, is it?

A. No, Mr. Hooker said he paid him $150, but I knew from Mr. George Pardy that he did not pay him anything.

(Deposition of Albertine Hasler.)

XQ. 2. Your knowledge of that matter was based entirely upon the statements of Mr. Pardy to you, Miss Hasler?

A. Yes, excepting what Mr. Hooker said.

XQ. 3. Excepting what Mr. Hooker said.

A. Yes.

Mr. McKINLEY.—Defendant moves to strike out the statements of the witness as to her knowledge that Mr. Hooker did not pay Mr. Pardy, as hearsay.

XQ. 4. What business was Mr. Pardy engaged in, Miss Hasler?

A. He was a patent attorney and a mechanical engineer.

XQ. 5. Was he a man of means in May, 1888?

A. I dare say he had some money.

XQ. 6. Any considerable amount?

A. Well, I know he had a bank account. I don't know exactly how much he had.

XQ. 7. What was the date of his death?

A. August 14, 1889.

XQ. 8. How much estate did he leave?

A. I really can't tell you. There was a great many people owing him money.

XQ. 9. About what did he have in property?

A. I can't tell you.

XQ. 10. About what was there administered upon in the course of the estate? You were the executrix, were you not? A. Oh, no.

(Deposition of Albertine Hasler.)

XQ. 11. Were you a legatee? A. Yes.

XQ. 12. How much did you receive from it?

A. I don't remember. Some hundreds of dollars.

XQ. 13. Some hundreds? A. Yes.

XQ. 14. Over a thousand dollars, was it?

A. No, I don't think so.

XQ. 15. And you got half the estate?

A. No, I did not.

XQ. 16. What proportion did you get?

A. I got three-eighths.

ALBERTINE HASLER.

Subscribed and sworn to before me this 13th day of February, 1905.

[Seal] FRANK L. OWEN,

Notary Public, State of California, City and County of San Francisco.

EDWARD E. OSBORN, a witness called on behalf of complainants, sworn, examined, testified as follows:

(By Mr. HARPHAM.)

Q. 1. Mr. Osborn, what is your business?

A. I am a solicitor of patents.

Q. 2. How long have you followed that business, and where?

A. Ten years in New York City, and upwards of twenty years in San Francisco, California.

Q. 3. Were you acquainted with George Pardy in his lifetime?

(Deposition of Edward E. Osborn.)

A. I was acquainted with George Pardy.

Q. 4. What was his business at the time of his death?

A. He was a solicitor of patents, and acted as a patent expert, also.

Q. 5. Please look at the original letters patent which have been introduced in evidence in this case and state who prepared the specifications upon which those letters patent were granted.

A. I prepared the specification for the application, and also superintended the production of the drawings.

Q. 6. From what information were the drawings prepared?

A. As I recollect the matter, these drawings were prepared by our draftsman, the draftsman of Smith & Osborn, from drawings furnished us by Mr. William Pardy.

Q. 7. Do you know by whom those drawings were that furnished you were prepared? A. I do not.

Q. 8. Look at these specifications which are marked Complainants' Exhibit No. 4, and state whether or not they were the basis upon which you prepared the specifications of the letters patent in suit?

A. I have seen this manuscript that purports to be a specification of a riveting machine, and I have compared it with the printed specification of letters patent No. 434,677. The language in portions of the description of the construction of the machine was taken by me from a copy given to me at that time by Mr. William Pardy, at the time I wrote the specification, but whether this is the identical manuscript or not, I can't say.

(Deposition of Edward E. Osborn.)

Q. 9. From your examination of Exhibit No. 4, and of the letters patent sued on, what would you say as to the probabilities of this being the document that you had in use at the time you prepared those specifications for filing in the patent office?

A. I certainly prepared the specification from a description—either from that description or one like it. I can't say that that is the one that I used at that time.

Q. 10. What was Mr. George Pardy's business in the year 1886, or 1887?

A. Mr. George Pardy had an office on Montgomery street. He had a sign outside, "Solicitor of Patents and Expert in Patent Cases."

Mr. McKINLEY.—No questions.

EDWARD E. OSBORN.

Subscribed and sworn to before me this 13th day of February, 1905.

[Seal] FRANK L. OWEN,

Notary Public in and for the City and County of San Francisco, State of California.

WILLIAM S. PARDY, a witness called on behalf of complainants, sworn, examined, testified as follows:

(By Mr. HARPHAM.)

Q. 1. State your name, age and residence?

A. William S. Pardy; 68; Fifth avenue; age, 36.

Q. 2. What relation do you sustain to Mr. William Pardy, one of the complainants in this action?

(Deposition of William S. Pardy.)

A. I am a son of William Pardy.

Q. 3. You are a nephew of George Pardy, deceased?

A. I am a nephew of George Pardy, deceased.

Q. 4. Please look at this sketch, marked Complainants' Exhibit No. 5 and state whether or not you ever saw that before, and if so, when you saw it, and where?

A. Yes, I have seen this sketch before at the office of my uncle, George Pardy, which was at 402 Montgomery street, in the latter part of the year, 1887.

Q. 5. Please state the circumstances under which you saw that sketch?

A. Well, I called at his office and he introduced me to Mr. Hooker with whom he was conversing at the time, and they talked for quite a while, and after they got through their converstaion my uncle George sat down and made this sketch during the afternoon.

Q. 6. What Mr. Hooker was that?

A. Mr. J. D. Hooker of Los Angeles.

Q. 7. Do you remember what they were conversing about?

A. Mr. Hooker was telling my uncle that he would like to get a riveting machine that would rivet pipe, and that if he could get up such a machine he could make some money out of it.

Q. 6. Well, go on and state anything else that occurred at that conversation?

A. Well, my uncle at that time referred to a pipe-riveting machine that was at the Risdon Iron Works, and Mr. Hooker said it would not suit his purposes.

(Deposition of William S. Pardy.)

Q. 9. Did he state why it would not suit his purposes?

A. No, he did not.

Q. 10. Do you know whether Mr. Hooker had seen that machine at the Risdon Iron Works?

A. He said that he had seen it.

Q. 11. That he had seen it?

A. That he knew of that machine.

Q. 12. Were any suggestions made by Mr. Hooker to your uncle at that time in relation to the construction, the manner of construction of such patent riveting machine?

A. No, not in my presence. I saw my uncle George make that sketch after Mr. Hooker left the office, and I was told afterwards—

Q. 13. (Int.) Don't state anything that you were told. Just simply state only these things that you know of your own knowledge?

A. Well, afterwards I saw a piece of paper that was supposed to be of a riveting machine, that there was a good portion of it built from that sketch, the original sketch; that is, the idea of it.

Q. 14. Did you see that machine while it was being built? A. No, I did not.

Q. 15. Who built the machine?

A. Well, I don't know for a fact; only from hearsay.

Q. 16. Do you know whether your uncle George had been working upon a pipe riveting machine before he made that sketch, or not? A. I don't know.

(Deposition of William S. Pardy.)

Q. 17. Do you know whether he worked upon a pipe riveting machine at that time? Yes.

Q. 18. For how long?

A. Well, for a month after that he was working on it, and I left the city.

Q. 19. And you don't know how much longer than that he worked? A. No, I do not.

Cross-examination.

(By Mr. McKINLEY.)

XQ. 1. What did you say was the date of this conversations? A. It was 1887.

Q. How do you fix the time?

A. Because it was shortly after I left San Francisco for Reno, Nevada. I left in the beginning of the month of December.

Q. 3. Was this some time in the preceding month?

A. About a couple of months before that.

Q. 4. Probably in October?

A. Perhaps the beginning of October or the latter part of September.

Q. 5. What was your business at that time?

A. Well, I came to San Francisco during the month of May, and I was working in the printing business, on the "Alta California."

Q. 6. You had not been engaged in any mechanical business, that is, in the making of machinery or anything of that sort at that time?

A. No.

(Deposition of William S. Pardy.)

Q. 7. You were not familiar with those matters?

A. Only what I have been told; only what I had learned around my uncle's office.

Q. 8. You had been around his office considerably during that period, from May until that time?

A. Every day.

Q. 9. Now, when was this, morning or afternoon, that you were there on this occasion?

A. I generally went there in the morning and in the afternoon.

Q. 10. This occasion that you saw Mr. Hooker, was that morning or afternoon?

A. That was in the morning.

Q. 11. And was he there when you came in?

A. He was.

Q. 12. What was he doing then?

A. Talking with my uncle.

Q. 13. Discussing this matter? A. Yes, sir.

Q. 14. And how long did you remain?

A. I stayed there all the afternoon.

Q. 15. I thought this was morning?

A. I stayed there. You asked me how long I was there.

Q. 16. You were there right along? A. Yes, sir.

Q. 17. You stayed there through the whole forenoon?

A. Yes, sir.

Q. 18. You were there the rest of the forenoon?

A. Yes, sir.

Q. 19. Mr. Hooker arrived there before you did?

(Deposition of William S. Pardy.)

A. Yes, sir.

Q. 20. How long was he there before you came?

A. I suppose he was there an hour or so.

Q. 21. What were you doing during the time he was there?

A. Listening to them talk. My uncle introduced me to him and I sat there.

Q. 22. You sat and listened to the talk?

A. Yes, sir.

Q. 23. They were discussing the kind of machine that he wanted made?

A. He wanted a riveting machine made.

Q. 24. He described the character of the work he wanted done? A. Yes, sir.

Q. 25. And do you remember anything else in that conversation?

A. Well, he spoke about large quantities of pipe being used for irrigating purposes; that he wanted to get in and get some of the large contracts. I remember that well.

Redirect Examination.

(By Mr. HARPHAM.)

RQ. 1. During the time that you were visiting your uncle's office, what business was he engaged in?

A. Patent attorney.

RQ. 2. Do you know whether he had any experience in mechanical affairs of your own knowledge?

A. Yes, sir.

(Deposition of William S. Pardy.)

RQ. 3. What experience had your uncle in the mechanical line?

A. Well, he was a mechanical and civil engineer.

RQ. 4. Do you know whether he had ever been at work for any people in San Francisco before that time?

A. I believe he had worked at the Scotts' Iron Works.

RQ. 5. (By Mr McKINLEY.) This is of your own knowledge, is it?

A. This is what my uncle told me. I don't know of my own knowledge. I never saw him working there. I was only a boy when he worked there. Not of my knowledge I don't know as he worked anywhere. I do know he was considered a first-class mechanical and civil engineer.

RQ. 6. (By Mr. McKINLEY.) That is all you know about it?

A. Yes, sir.

Mr. McKINLEY.—The defendant moves to strike out that statement as a conclusion of the witness, hearsay and incompetent.

WILLIAM S. PARDY.

Subscribed and sworn to before me this 13th day of February, 1905.

[Seal] FRANK L. OWEN,

Notary Public in and for the City and County of San Francisco, State of California.

WILLIAM PARDY, recalled by complainants for further examination.

RQ. 1. (By Mr. HARPHAM.) Mr. Pardy, this book, Complainants' Exhibit No. 1, shows a balance of $395.57?

A. A Wells-Fargo's balance?

RQ. 2. A Wells-Fargo's balance; yes, sir. State whether or not you ever collected that balance as executor of the estate.

A. As executor of the—I collected $395.57 from Wells-Fargo's bank.

RQ. 3. What other property did Mr. George Pardy leave?

A. He had $600 worth of United States bonds upon which I realized $759 for the estate.

RQ. 4. Do you know how long he had owned those bonds? Is there anything to indicate?

A. Oh, he had had them some time, I think.

RQ. 5. Have you any means of determining how much money Mr. George Pardy paid for the construction of that first pipe riveting machine?

A. I have the bills from the firm of Rix & Furth on the first machine built, and some bills pertaining to the second machine built.

RQ. 6. Where are the bills of that first machine built?

A. They are in that envelope. (Pointing.)

RQ. 7. Is that a correct statement? (Showing.)

A. This is a statement of checks drawn and delivered to the parties named here. There is a statement rendered

(Deposition of William Pardy.)

by Rix & Furth, under date November 4, 1889, and checks given by George Pardy to Rix & Furth.

Mr. HARPHAM.—I offer in evidence that statement and ask that it be marked as exhibit and attached to the deposition.

(Marked Exhibit No. 7.)

Mr. HARPHAM.—I offer in evidence the receipt and the three checks.

Mr. McKINLEY.—The defendant objects to the admission of the statement just offered in evidence, and also to the introduction of the receipt and the three checks, on the ground that they are incompetent and irrelevant, and no proper foundation laid.

Mr. HARPHAM.—You don't object to the statement because it is not established by Rix & Furth, do you?

Mr. McKINLEY.—No, no.

(The receipt and the three checks are pinned together and marked Exhibit No. 8.)

RQ. 8. What experience had your brother George in the mechanical line?

A. Well, he had enough to constitute himself as a mechanical engineer and draftsman and patent agent.

RQ. 9. What mechanical institutions did he work for in San Francisco?

A. He first got employment in the Vulcan Iron Works.

RQ. 10. How long did he work for the Vulcan Iron Works?

(Deposition of William Pardy.)

A. Many years, and under the Scotts'.

RQ. 11. At the Union Iron Works?

A. No. He got his training or knowledge of machinery and its manufacture mostly at the Vulcan Iron Works.

RQ. 12. Did he ever work for any rolling-mills?

A. I don't know whether the Vulcan Iron Works are rolling-mills or not.

Recross-examination.

(By Mr. McKINLEY.)

RXQ. 1. Have you detailed all the estate that your brother left, Mr. Pardy? You stated that he left these government bonds and $395 in bank?

A. That is all what I call cash.

RXQ. 2. Did he leave other estate than that?

A. He left some debts, uncollected, and office furniture.

RXQ. 3. By debts you mean accounts?

A. Accounts, yes, sir.

RXQ. 4. (By Mr. McKINLEY.) What did his estate net?

A. Sixteen hundred and eighty-seven dollars.

WM. PARDY.

Subscribed and sworn to before me this 13th day of February, 1905.

[Seal] FRANK L. OWEN,

Notary Public in and for the City and County of San Francisco, State of California.

Complainants' Exhibit No. 1.

WELLS, FARGO & CO.'S BANK

In Account with George Pardy.

Wells, Fargo & Co.'s Bank in account with Geo. Pardy.

Dr.					Cr.
1884					
Aug. 14.	Deposit	5000	1	ford	3900.00
			1		1
Oct. 29.		350	50		1
			50		50
Nov. 30.		500	50		50
			150		25
			5		75
			450		50
			50		25
			1		50
			1		25
			1		50
			50		25
			1		165
			250		165
			25		60
			1		135
			50		25
			25		50
			1		25
			1	v. R.	60
			1		

				50		
				150		
				1	Bal.	640
		5850	ford	3900		5850.00
1886						1
Jany.	1.	Bal.	640			50
						25
						1
	8.		150			25
						20
	27.		500			2
						25
Apl.	14.		500			85
						60
Oct.			300			25
						25
						150
						1
						20
						50
						40
						20
						25
						1
						75
						25
					v. R.	50

				100
			Bale.	1595
		2090.00		2090.00
1886				
Nov. 1.	Balce.	595		60
12.		300		50
1887.				
June 18.		314.91		50
Oct. 18.		300		25
Nov. 28.		200		2
				95
				30
				1
				20
				20
				40
				50
				145
				25
				80
				2
				50
				2
				50
			v. R.	25
				50
			Bal.	174.61
		1709.91		170.91

1887						
Dec. 14.	Bal.	174.61				56.04
						100
30.		500				100
						50
1888.						50
Jany. 11.		250				313
						100
Mch. 24.		500				50
				v. R.		104
May 9.		500				25
						100
						50
						50
				Balance		776.57
		1924.61				1924.61
May 10.	Balance	776.57	100	100	50	83
			30	100	56	25
Sept. 11.		1000	50	100	75	250
			75	100	150	25
Nov. 3.		50	50	25	30	200
			25	20	100	30
Dec. 3.		500	70	75	25	25
						50
June 14.		193			Bal.	425.57
		2519.57				2519.57

June 17.	Bal.	425.57		100
28.		125	v. R.	25
July 18.		100		200
29.		100		30
			Bal.	395.57
		750.57		750.57
Sep. 2.	Balance	395.57		

[Endorsed]: Complainants' Ex. 1. F. L. O. N. P.

Complainants' Exhibit No. 2.

Stubs Attached to Check-book.

No. 1. Date Mch. 27, 1888. Amt. 100.
To Cash.
No. 2. Date Ap. 3, 1888. Amt. 50.
To Cash.
No. 3. Date Ap. 18, 1888. Amt. 50.
To Cash.
No. 4. Date May 1st, 1888. Amt. 100.
To Cash.
No. 5. Date May 7, 1888. Amt. 56.04.
To Calvin Nutting & Son. Bal. 776.57.
No. 6. Date May 11, 1888. Amt. 100.
To Jno. D. Hooker, 676.57.
No. 7. Date May 15, 1888. Amt. 50.
To Cash, 626.57.
No. 8. Date May 16th, 1888. Amt. 83.00.
To W. F. Buswell, 543.57.

No. 9. Date May 24, 1888. Amt. 30.
To Crocker & Co., 513.57.
No. 10. Date May 29, 1888. Amt. 56.00.
To W. K. Vanderslice & Co., 457.57.
No. 11. Date May 31, 1888. Amt. 100.
To Cash & Board, 357.57.
No. 12. Date June 16, 1888. Amt. 25.00.
To Cash, 332.57.
No. 13. Date July 7, 1888. Amt. .....
To cash, 50——182.57.
No. 14. Date ....., 188..... Amt. 100.
To W. Pardee, 182.57.
No. 15. Date ....., 188..... Amt. .....
To cash, $75. 107.51 Bal.
No. 16. Date Sep. 11, 1888. Amt. 250.00.
To Joel B. Low, 1107.51
250.00

857.51

No. 17. Date Sep. 13, 1888. Amt. 75.00.
To 782.51, cash for English Patent, etc.
No. 18. Date Sep. 21, 1888. Amt. 100.
To 682.51. Clothes, etc., 100$.
No. 19. Date 28 Sep. 1888. Amt. 150.00.
To 532.51, Jas. L. Drum.
No. 20. Date ....., 188..... Amt. .....
To Rent, 25.00. 507.51.
No. 21. Date Oct. 4, 1888. Amt. 50.
To Cash, 50$. 457.51.
No. 22. Date Nov. 2, 1888. Amt. 25.00.

To rent, A. H. 432.51.
No. 23. Date, Nov. 2, 1888. Amt. 30.
To Cash, 402.50.
Deposit, 50 / 452.51.

No. 24. Date Dec. 3, 1888. Amt. 200.
To Two hundred Board Drain, etc., 252.50.
500 / 752.51.
No. 25. Date Dec. 8, 1888. Amt. 25.
To twenty-five, 727.51.
No. 26. Date, ..., 188...., Amt. .....
To Jas. L. Drum, 20 707.51.
No. 27. Date Feb. 2, 1889. Amt. 100.
To Board & Rent, 100$. 607.51.
No. 28. Date, ..., 188..... Amt. .....
To Thirty 00/100, 577.51.
No. 29. Date Feb. 9, 1889. Amt. 70.
To Seventy 60/100, 507.51.
No. 30. Date Ap. 2, 1889. Amt. 25.
To Rent, 482.51.
No. 31. Date Ap. 2d, 1889. Amt. 75.
To Board, 407.51.
No. 32. Date May 3, 1889. Amt. 50.
To Board, 357.51.
No. 33. Date May 25, 1889. Amt. 25.00.
To Cash, 332.51.
No. 34. Date June 3, 1889. Amt. 100.00.
To Cash, 425.57, 232.51.
No. 35. Date July 3, 1889. Amt. 100.
To Board, 450.57, 325.51.

No. 36. Date July 18, 1889. Amt. 25.

To Cash, O. K. 425.57.

No. 37. Date 26 July, 1889. Amt. 200.

To Bearer (Drum), Bal. 225.

No. 38. Date 27 July, 1889. Amt. 30.

To L. M. Clement, Bal. 295.00.

No. 50. Date Oct. 1st, 1889. Amt. 6,20.

To C. A. Klinker & Co. Stamps.

No. 51. Date 10/26, 1889. Amt. .....

To Joe Poheim, Tailor, 25$.

No. 52. Date Oct. 2d, 1889. Amt. 25.

To wife.

No. 53. Date Oct. 2d, 1889. Amt. 87.00.

To Treasurer Ctfs. # 492. 566. 340. Canceled.

No. 53. Date Oct. 2d, 1889. Amt. 40.

To Safe Dept. Co.

No. 54. Date Oct. 2, 1889. Amt. 73.80.

To P. S. S. L. & B. Co. Dues #566.492.

No. 55. Date Oct. 4, 1889. Amt. 5.00.

To E. P. Unangst (A/c Mrs. Greene.)

No. 56. Date Oct. 4, 1889. Amt. 5.00.

To D. W. James. P. Robles (A/c Mrs. Greene.)

No. ....., Date ....., 188..... Amt. .....

To .....

WELLS FARGO & CO.'S BANK. (2)

San Francisco.

No. ...., 188.....

Pay to ..... or order ..... Dollars.

$..... .....

[Endorsed]: Complainants' Ex. "2." F. L. O. N. P.

Complainants' Exhibit No. 3.

WELLS, FARGO & CO.'S BANK (3)

San Francisco, May 11th, 1888.

No. 6.

Pay to Jno. D. Hooker, bearer, One Hundred 00/100 Dollars.

$100.00.

GEO. PARDY.

[Endorsed]: Jno. D. Hooker. Wells, Fargo & Co.'s Bank. Paid May 11, 1888.

(In lead pencil:) Borrowed money.

Complainants' Ex. "3." F. L. O. N. P.

Complainants' Exhibit No. 4.

GEORGE PARDY.

SPECIFICATION.

To All Whom It May Concern:

Be it known that I, George Pardy, a resident of the City and County of San Francisco, State of California, have invented a new and useful

RIVETING MACHINE

of which the following is a specification:

My invention relates to a machine for riveting the straight seams of sheet metal cylinders, such as

joints of piping, tanks, small boilers, etc., and it consists in a combination of parts hereinafter described and claimed.

In the accompanying two sheets of drawings forming part of this specification:

Figure 1 is a side elevation of the machine; Figure 2 is an end elevation of the same; Figure 3 is a plan of the carriage hereinafter described: Figure 4 is a plan of the bar for the rivet sets.

Figure 5 is a plan of the driving shaft, pulleys and belt shipping rig; Figure 6 is a transverse section of

(Endorsed.) Geo. Pardy. Notes. Riveting Machine.

the set bar, mandril and a joint of pipe.

In all the figures the same letters of reference are used to indicate the same parts:

The machine is intended to crush down and head cold rivets which have been inserted by hand into the holes to receive them before the pipe joint, as it may be, is introduced into the machine.

The general plan of the operation of the machine is as follows:

A sheet of metal having been punched with rivet holes as required, then rolled in cylindrical form, then tacked together with a rivet at each end of the overlapping edges of the seam so as to keep the cylinder in shape, is struck with rivets all along the seam until every hole but one at the end is filled; This cylinder is then hung upon the mandril of the machine, seam

(Endorsed.) Geo. Pardy's Draft of Spen Riveting Machine.

and rivet points uppermost; a bar called a set bar, having as many sets therein as there are rivets to be headed is then swung down upon its hinge over the seam of the pipe joint with such proper guidance as that every set shall rest plumb upon a rivet and every set project above the set bar as much as it is required that the rivet shall be crushed down to properly head it.

A carriage having a couple of small wheels front and rear is then rolled over the set bar, with enough pressure to heavily press the overlapping edges of the seam together, a large wheel between the forward and rear wheels at the same time crushing down the rivets by rolling over the heads of the sets with exactly as much pressure as the operation requires.

Half the work of heading the rivets is done as the carriage moves forward, and the rest as it moves backward.

The machine may be thus described in detail: A is a bed plate or foundation frame; B, B B, B are vertical posts bolted at the bottom of the bed plate; Joining the tops of each opposite post are cross-beams C, C, C, C, fastened in place by stirrup bolts c, c, c, c, and strap washers c′, c′, c′, c′, each bolt passing around a lug c^2, cast solid on the post and their ends passing through the strap washers and having screw nuts c^3, on top, the strap washers straddling the cross-beams:

To underneath the four cross-beams is single longitudinal beam D is bolted by bolts d; Two other cross-beams E, E′, rest between the two rear pair of posts upon lugs e, e′, case thereon; these beams being held immovable by tapering keys e^2, driven between the top face of the beams, and lugs e^3 cast on the posts.

All the beams are what are called deck beams of I shaped Cross-section: The bears E and E′, support the inner end of the mandril F which is secured to them by the stirrup bolts f f; these bolts straddling the mandril whilst their ends pass down through the flanges of the beams to terminate with screw nuts f′ underneath:

The forward end of the mandril has a swinging pivotal prop G, to support it, which rests its journals g, in bearings g′ cast on the lower ends of the contiguous posts; This prop is swung down out of the way when a pipe joint is being put on or taken off the mandril, and it should have a counterbalance weight g^2 proportioned so that the tendency of the prop will be to swing upwards when not actually held down. Where the prop bears against it, the mandril is cut away upon a curved line corresponding to the curve described by the point of the prop as it swings in and out;

H, is the set bar, hinged upon a point at h, about middle of third pair of posts.

This bar has as many holes bored through it as there are rivets to be headed down, each hole being accurately placed and fitted with a rivet set I, made of hardened steel, a slightly increased diameter at the top of the sets preventing them falling through the holes when the bar is raised; Each set will have a concave point corresponding to the shape of the rivet head it is intended to form, but they should be flat on top.

The bar should have a transverse section perfectly flat on top but concave on the bottom to suit the average curve of the cylinders to be riveted, thus if the machine is intended to rivet pipes from six to twenty-four inches in diameter the curvature suitable for a fifteen-inch pipe might be adopted. Still however should the bottom be made flat it would simply cause the seam to be flattened out too, which would be observable in the smaller pipes but scarcely so in the larger ones.

This set bar will require to have steel sides hardened, the center however in which the sets are held may be either iron or steel, it being the intention not to submit the center of the bar to any pressure whatever.

In making this bar the steel strips on the sides may be either welded or bolted on; The front end of the bar is suspended by the link J, from the lever J′, which has its fulcrum a jaw bolt J^2, secured on the front cross-beam K, which supports the forward ends of the screw shafts L, L; There is a counter-weight

J^3 on the overhanging end of the lever J′ adjustable as to the distance from the fulcrum so as to slightly overbalance the weight of the suspended end of the set bar, and tend to raise it when not held down by the latch M;

This latch M, is a simple hook pivoted at about its center to the side of the set bar, projecting above it about an inch or so; It also projects below the set bar terminating in a hook shaped end which engages with the pin m driven into the side of the mandril, being held in position disengaged from said pin, as shown in dotted lines, by a spring pad m′ of rubber or steel countersunk into the mandril placed behind it so as to press against the latch with a binding pressure sufficient to hold it from dropping back under the pin; where this latch is placed the mandril is flattened off to accommodate it. The function of the latch is to prevent the bar from tipping up at the outer end when the pressure is downward at the extreme inner end beyond where the bar rests on the pipe, the edge of the metal of the pipe forming a fulcrum upon which the bar swings in a vertical plane unless the bar is held down until the pressure rollers pass fairly over the seam of the pipe, after which there will no longer be any tendency to tip up the bar in front. The bar is guided to drop exactly in the center by the tapering pin h′ entering the hole in the mandril. The pipe joint in the act of being riveted is held in place so that every rivet will be exactly under a set, by a tapering pin h^2 projecting downward

from the lower face of the set bar into the last rivet hole of the pipe which is left without a rivet until the adjoining joint is attached, and the round seam is riveted up; The front end of the joint is held in place by slipping a sleeve or ferrule h^3, over the shank of the last rivet in front which sleeve enters the hole for the set in the set bar and pushing the set out draws the pipe joint into proper alignment if it should be a trifle out. Afterwards this sleeve h^3 is picked one of the hole in the bar from above and the displaced set returned to its place. The upper end of the sleeve or ferrule should be slightly tapering so as to enter the hole in the bar easily.

N is a carriage within which is mounted the pressure wheels O, O, O′, O′, and P. The two top wheels O, O, bear against the underside of the bean D, with a force equal to the sum of the pressures used to press the overlapping edges of the pipe together and the pressure required to head down the rivets minus the weight of the carriage and pressure wheels.

The two lower pressure wheels O′, O′, are grooved on the face so as to pass over the rivet sets without touching them, their edges bearing directly on the sides of the set bar with a downward force equal to what is proper to apply to close the seam; The wheel P, is independent of the wheels O′, O′, and is given a pressure just equal to the needs of the riveting operation, and no more; All the wheels have journals on each side of the carriage, carried in brass

boxes o, o, o′, o′, p suitably fitted in recesses provided for them.

The carriage is formed of two heavy slabs of cast iron held a distance apart, to give room for the wheels between, by connecting bars of metal n, front and rear placed between the upper and lower wheels.

The carriage may be cast in one solid piece or each side may be a separate piece the two sides being afterwards bolted together, as may be found most convenient in fitting the parts together. As the center of the carriage will be weakened by having the large open space to accommodate the boxes for the journals of the center wheel a couple of wrought iron bars n′ having holes bored through them at each end are fitted over the projecting journals of the lower small wheels on either side thereof, thus bracing the sides of the carriage across the openings n^2 n^2 are bosses cast on the sides of the carriage and Q, Q, are brass screw nuts fitted, upon the screw shafts, between them; The screw shafts L, L, in revolving carry the nuts Q, back and forth and with them the carriage against which they bear; They are supported in journal boxes cast on the cross bars K, K′, at each end of the machine; On the back end of each screw a toothed gear wheel R, is fitted which wheels engage with a toothed gear wheel R′ interposed between them, this latter wheel being fitted on the countershaft S, which is driven alternately to the right and left, by straight and crossed belts S′, S^2 transmitting motion from a main line shaft or other source of power near by; The outside pulleys on the countershaft are loose on the shaft whilst the middle one is fastened thereon by key or set screws.

The end thrust of the screw shafts will be taken up by the collars l, l, secured upon the shafts outside their journal boxes;

The means for imparting a pressure through the small wheels and set bar to the overlapping edges of the seam of the pipe placed between the set bar and the mandril, consists in putting shims under the journal boxes of the upper wheels until the upper and lower wheels are spread apart a distance sufficient to produce the desired pressure on the bar when the carriage is forced along by the revolving screws. The nicest possible adjustment may be made by using very thin shims care being taken to put the same thickness of shims under each of the four boxes;

The pressure on the large wheel in the middle is produced by shims placed over the journal boxes; The riveting should not be done completely as the carriage is moved forward but one-half the work should be left for the backward stroke, hence the journal boxes of the middle wheel may rise to the top of their recesses, when the carriage advances, leaving the lowest point of the wheel about one-eighth of an inch below the tops of the sets which of course must be crushed down that distance before the wheel can pass over them. When the carriage returns on the back stroke the swinging shims T, are automatically pushed in between the top of the journal boxes and the roof of their recesses, thus preventing the wheel from rising as high as before and the rivets will be further crushed down according to the thickness of the shims; These swinging shims are fastened to horizontal bell cranks t, each having a fulcrum pin t', passing through a jaw bolt t^2 and, being guided in a slotted guide bar t^3, which is secured to the side of

the carriage in such a position as to ensure the shims being accurately guided into their recesses:

The swinging in of the shims is accomplished by the short arm of the bell cranks coming in contact with the suspended bars t^4, hung on the ends of rods t^5 projected from the beam D, just as the carriage reaches the end of the stroke in traveling forward, the swinging out being effected by the arm of the bell crank striking similar swinging bars t^4 suspended behind the second pair of posts. (Shown in dotted lines.)

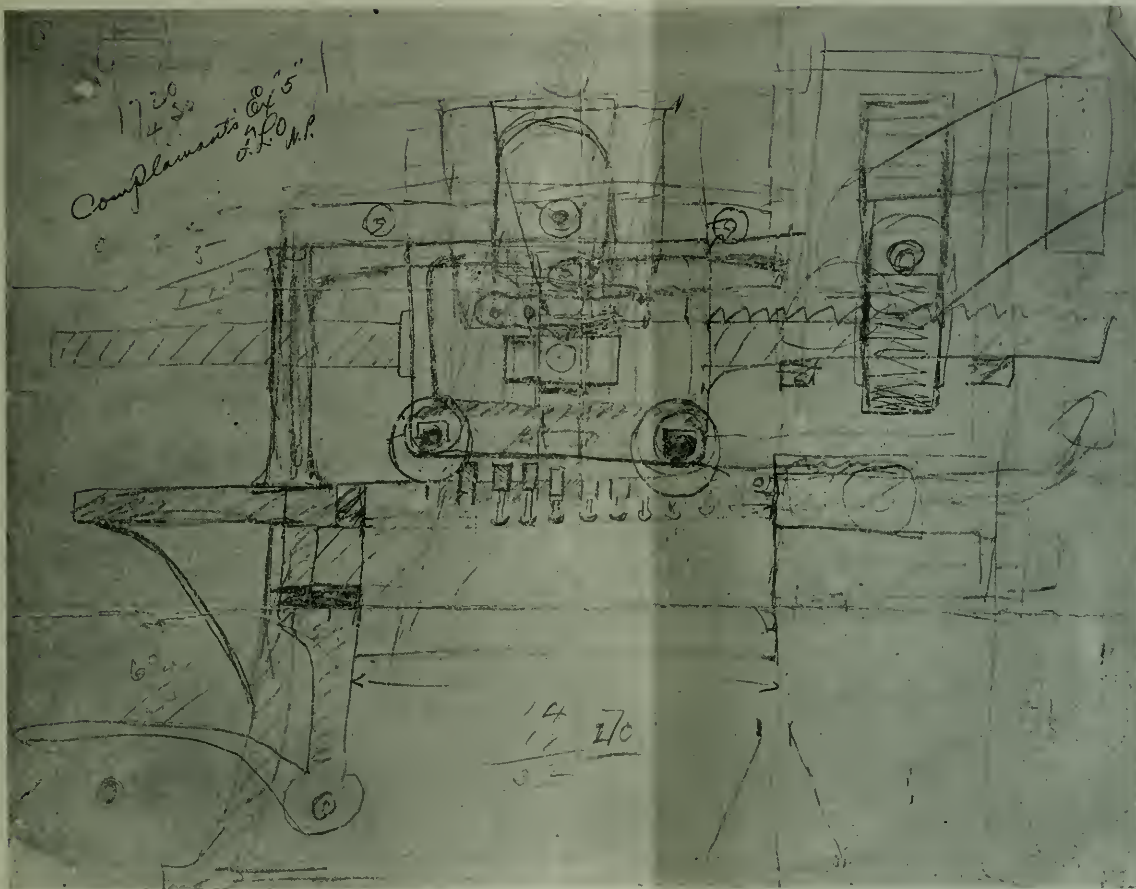
The suspended bars t^4 should be fixed to move rather stiffly but still yield when pushed against hard, as it is desirable that the shims should be sent well home but without danger of anything being broken should the carriage move a trifle too far.

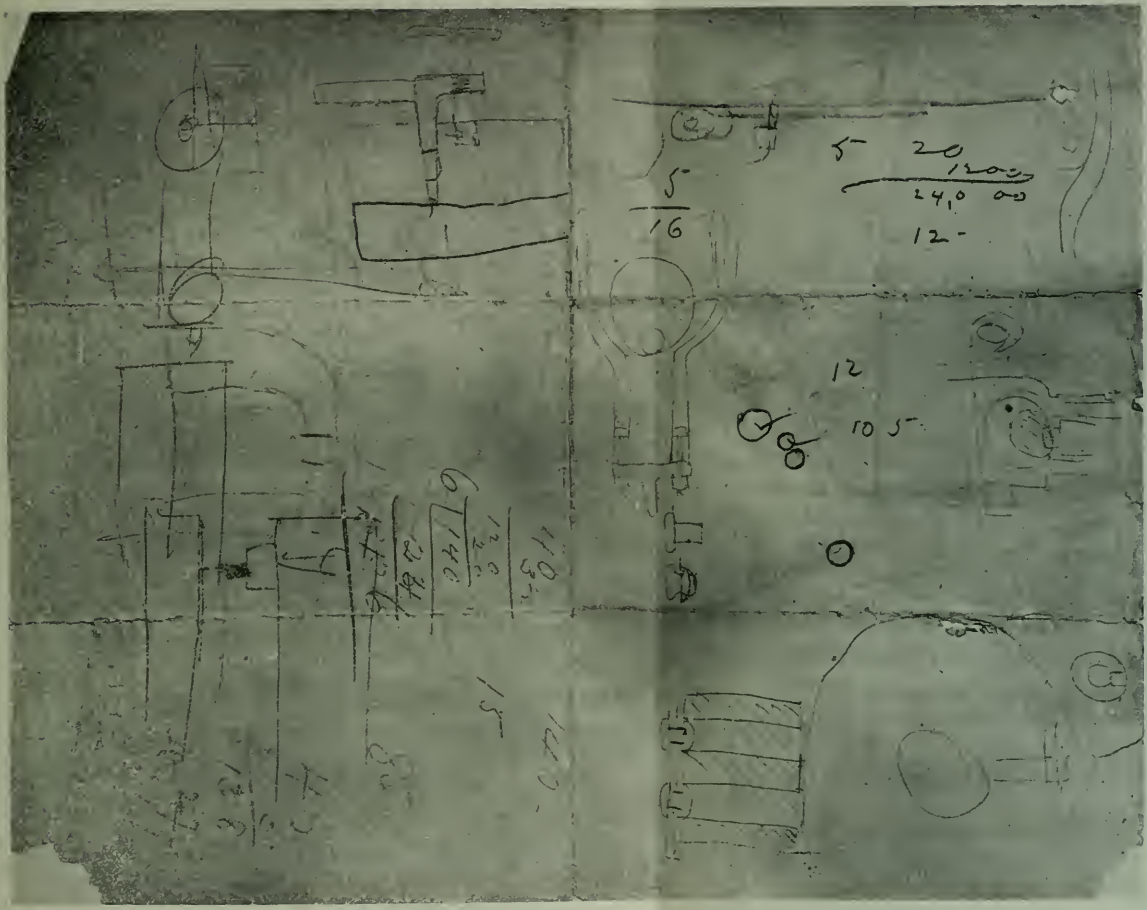
The shims are thrown in when the center wheel rolls down after passing over the last of the sets in front, and they are thrown out immediately after returning over the first set in the rear.

There is a bar t^6 fitted on top of the mandril in the rear of the set bar having about the same height and width it forms a track for the carriage to roll on after it leaves the set bar;

here is a lever V.

[Endorsed]: Specification of Riveting Machine. Invented by George Pardy Riveting Machine. Complainants Ex. "4," pages 1 to 16, inclusive, F. L. O. N. P.


Complainants' Ex "5"
J.L.O. N.P.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Complainants' Exhibit No. 6.

20

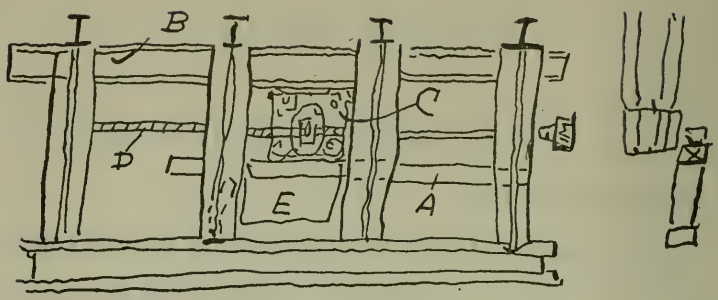
402 Montgomery St., Octr. 22d, 1887.

Norman Selfe, Esq.,

My dear Sir: I have just time to ask of you to drop me a line and inform me if there is any riveted pipe for irrigation purposes made in N. S. W. & the other Colonies and would a patent for a riveting machine be of any value there. I am making one at a cost of 900$ which will rivet the straight seams two rows of rivets in about 2 minutes, by hand it takes 15 minutes, I have an order for 4 machines, and can get an order for about 25 in California at $2500 each.

The machines wont cost $600 when made by the lot. Now you surely have pipes for irrigating, say from 4″ to 24″. #20 to 12 iron 5 to 10 lbs rivets. $\frac{1}{8}$ to $\frac{1}{4}$ diameter cold riveting; Machine is a very simple affair, simply a heavy roller adjustable to press from 3 to 10 tons on top of a series of steel sets held in a bar and set on top of rivets, the roller is propelled by two screws one on each side.

Every one thinks it will be a grand success. Two small rollers run in front of big roller and two behind to press the iron together. here is a sketch.



A—steel mandril.

B—heavy beam.

C—carriage to give pressure.

D—screws.

E—section of pipe.

Give your idea.

Truly yours,

GEO. PARDY.

[Endorsed]: Complainants' Ex. 6. F. L. O. N. P.

Complainants' Exhibit No. 7.

EDWARD A. RIX. J. E. de RUYTER. J. K. FIRTH.

Manufacturers of all Kinds Mining Machinery, Pneumatic Locomotives, Steam Locomotives, Water Wheels Ice Machines, Quartz Mills.

Air Compressors, Miners' Horse-whims, Electric Motors, Corless Engines, Hoisting Engines, Rock Drills, Boilers.

PHOENIX IRON WORKS.

Established 1849, Telephone 965.

Location of Works, 225-227-229 First St.

Cable Address:

Phoenix San Francisco.

RIX & FIRTH.

San Francisco, Nov. 4th, 1889.

Wm. Pardy, Esq., Safe Deposit Building, City.

Dear Sir: Yours of the 2nd at hand and in reply would state that Mr. George Pardy paid to us on the following dates, the amounts set opposite.

Oct. 18th, 1887.....	$200.00
Nov. 25th, 1887....	$140.00
Dec. 28th, 1887.....	$100.00
Dec. 30th, 1888....	$396.55
Jan. 17th, 1888.....	$124.80
	$961.35

This is the whole amount paid to us by Mr. Pardy for the riveting machine.

Yours Resp'y,

RIX & FIRTH,

PILSBURY,

Dic. F. W. P.

[Endorsed]: Complainants' Ex. "7." F. L. O. N. P. Rix & Firth Acct. of 1st machine. Rix & Furth payments on 1st machine Nov. 4, 1889.

Complainants' Exhibit No. 8.

(8) WELLS, FARGO & CO.'S BANK.

No. 35. San Francisco, Oct. 18, 1887.

Pay to Rix & Firth or order, Two Hundred 00/Dollars.

$200.00. GEO. PARDY.

[Endorsed]: For Deposit, Rix & Firth. Rogers. Pay through Clearing-house, 1, Oct. 21, 1887. The Bank of California. Wells, Fargo & Co.'s Bank. Paid Oct. 21, 1887. Complainants' Ex. 8. F. L. O. N. P.

WELLS, FARGO & CO.'S BANK.

No. 42 San Francisco, Dec. 30th, 1887.

Pay to Rix & Firth or order, Three Hundred & thirteen Dollars. $313.

GEO. PARDY.

[Endorsed]: Rix & Firth for deposit. Pay through Clearing-house, 1, Dec. 31, 1887. The Bank of California. Wells, Fargo & Co.'s Bank. Paid Dec. 31, 1887. Complainants' Ex. 8. F. L. O. N. P.

WELLS, FARGO & CO.'S BANK.

No. 45. San Francisco, Jan. 17th, 1888.

Pay to Rix & Firth or order, One Hundred & four Dollars. $104 00/000.

GEO. PARDY.

[Endorsed]: For deposit. Rix & Firth. Rogers. Pay through Clearing-house, 1, Jan. 20, 1888. The Bank of California. Wells, Fargo & Co.'s Bank. Paid Jan. 20, 1888. Complainants' Ex. 8. F. L. O. N. P.

San Francisco, Nov. 25, 1887.

Received of George Pardy Three hundred & forty Dollars, in part payment for Riveting Machine.

$340/00.

RIX & FIRTH.

(On left-hand margin): Phoenix Iron Works, Edward A. Rix & Co., Proprietors, 18 and 20 Fremont street.

[Endorsed]: Complainants' Ex. 8. F. L. O. N. P.

[Endorsed]: No. 1125. U. S. Circuit Court, Southern District of California, Southern Division. William Pardy et al. vs. J. D. Hooker Company. Depositions of William Pardy, et al., taken before Frank L. Owen, N. P. Filed Apr. 7, 1905. Wm. M. Van Dyke, Clerk. Chas. N. Williams, Deputy.

In the Circuit Court of the United States, Southern District of California, Southern Division.

IN EQUITY.

WILLIAM PARDY and ALBERTINE HASLER,
Complainants,
vs.
J. D. HOOKER COMPANY (a Corporation),
Defendant.
No. 1125.

Testimony.

Testimony taken on behalf of complainants, by agreement and consent of counsel for the respective parties, before Leo Longley, Esq., Special Examiner in Chancery, at the office of Hazard & Harpham, 16 Downey Building, in the city of Los Angeles California, on September 30th, 1904, at 2 o'clock P. M.

Appearances:

GEORGE E. HARPHAM, Esq., Appearing on Behalf of Complainants;

J. W. McKINLEY, Esq., and A. H. VAN COTT, Esq., Appearing on Behalf of the Defendant.

Mr. HARPHAM.—We will offer in evidence the letters patent numbered 434,677, issued to William Pardy, as executor, for riveting machine, bearing date August 19, 1890; and ask leave to substitute for the original letters patent, a patent office copy.

(The copy of the document last referred to is marked Complainants' Exhibit No. 1—L. L.)

Mr. HARPHAM.—Now, I offer in evidence a certified copy of the decree of settlement of accounts and final distribution in the estate of George Pardy.

(The document last referred to is marked Complainants' Exhibit No. 2—L. L.)

Mr. HARPHAM.—I now offer in evidence certified copy of the will and the order admitting the same to probate, and the issuance of letters testamentary, of Mr. George Pardy.

(The document last offered is marked Complainants' Exhibit No. 3—L. L.)

Mr. HARPHAM.—I now offer in evidence the assignment of George Pardy, of date May 2d, 1903, assigning all of his right, title and interest in and to letters patent numbered 434,677, and his rights of action.

(The document last offered is marked Complainants' Exhibit No. 4—L. L.)

Whereupon the further taking of testimony herein was adjourned to Thursday, October 6th, 1904, at 2 o'clock P. M., at the same place.

Thursday, October 6th, 1904, 2 o'clock, P. M.

Present: George E. Harpham, Esq., appearing on behalf of the complainants; J. W. McKinley and A. H. Van Cott, Esquires, appearing on behalf of the defendant.

Whereupon the further taking of testimony herein was resumed, pursuant to the adjournment, as follows:

F. K. SIMONDS, a witness produced on behalf of the complainants, being first duly cautioned and solemnly sworn to testify the truth, the whole truth, and nothing but the truth, deposes as follows:

Direct Examination.

(By Mr. HARPHAM.)

Q. 1. Mr. Simonds, what is your age, residence and occupation?

A. Forty-six; manufacturer; residence, 2801 South Flower.

Q. 2. What line of manufacture are you engaged in?

A. Manufacturer of riveted steel well and water pipes, tanks, and everything in regard to irrigation and domestic supplies.

Q. 3. How long have you been engaged in the business of manufacturing riveted steel pipe?

A. Oh, I should say eighteen or nineteen years.

Q. 4. Are you acquainted with J. D. Hooker?

A. Yes, sir.

Q. 5. The president of the defendant corporation, the J. D. Hooker Company? A. I am.

Q. 6. How long have you known him?

A. I guess about the same length of time; eighteen or nineteen years.

Q. 7. Were you ever connected with him in business?

A. Yes, sir.

Q. 8. And, if so, when and where, and for how long?

A. Los Angeles, for about seventeen years.

(Testimony of F. K. Simonds.)

Q. 9. What line of business was he engaged in at the time you were connected with him?

A. Manufacture of riveted well and water pipe.

Q. 10. Were you ever connected with the defendant corporation, the J. D. Hooker Company, and if so, when and where and for how long?

A. Yes, I was connected with them, but I cannot tell you right now when I think they were incorporated. I think it was in 1895. Or—yes, it was in 1895; up to within two years ago, rough figures.

Q. 11. And what line of business was said corporation engaged in during the time you were with them?

A. The corporation was manufacturing riveted steel pipe, plumbing goods. Had a store on Los Angeles street carrying general supplies.

Q. 12. The corporation, as I understand it, succeeded to the business of J. D. Hooker as an individual?

A. Yes, sir.

Q. 13. During the time that you were with the defendant corporation, did it have any machinery for manufacturing riveted steel pipe?

A. Yes, sir; that is, to manufacture a portion of it.

Q. 14. Did said corporation have any pipe-riveting machines in its factory? A. Yes, it did.

Q. 15. I now show you United States Letters Patent numbered 434,677, issued to William Pardy, as executor of George Pardy, deceased, for a riveting machine, and ask you to look at said patent and state whether or not the defendant corporation had in its pipe factory at Los

(Testimony of F. K. Simonds.)

Angeles during the time that you were with said corporation, any pipe machines constructed as described and shown in those letters patent?

A. Well, I have read through the letters patent. I should say we have got three like that.

Q. 16. (By Mr. VAN COTT.) Well, "I should say"—

A. I have not seen them before, but I suppose these are the duplicate of what I have got in my office.

Q. 17. Have you read those?

A. Yes, sir; got a machine made by them. The general description of this drawing is just the same as we have—that is, the main points. We have made some improvements on ours.

Q. 18. (By Mr. HARPHAM.) How many of those machines did the defendant corporation have in its factory during the time you were in its employ?

A. Three.

Q. 19. Were those machines used in their business?

A. Yes, sir.

Q. 20. Did those machines have the combination of a stationary mandrel or work-support, a gang of rivet-sets mounted in a holding-bar, which is laid over the line of rivets with a rivet-set directly upon each rivet, and a traveling pressure wheel or roller having movement along the rivet-set bar and adapted to act upon the heads of the rivet-sets with suitable pressure?

A. Yes, sir, they had.

Q. 21. Did those machines have a stationary mandrel

(Testimony of F. K. Simonds.)

or work-support, a rivet-set bar having a gang of rivet-sets loosely mounted therein and adapted to be raised from the mandrel for inserting a piece of work and to be brought down and secured in place over the seam or joint to hold a rivet-set directly upon each rivet of the work, a traveling-pressure roller mounted in a carriage to travel along the set-bar over the heads of the rivet-sets, an overhead rail arranged above said set-bar and adapted to hold the carriage down to its work with suitable pressure, and mechanism for moving said carriage over the work between the set-bar and the overhead rail? A. Yes, sir.

Q. 22. Did those machines have the combination, with a stationary mandrel of the gang of rivet-sets, the traveling carriage, pressure wheel or roller, overhead rail, screw-shafts, driving-gear, reversely-driven pulleys, driving-pulley, and belt-shifting mechanism adapted to be operated on by the carriage to control and reverse the movements thereof? A. Yes, sir.

Q. 23. Did those riveting machines have a stationary mandrel supported permanently at one end and at the opposite end by a swinging support arranged to be thrown clear of the mandrel to insert and remove tubular work, in combination with the removable rivet-sets mounted therein and the centering-pins in the set-bar adapted to take through the work and into the mandrel beneath? A. Yes, sir.

Q. 23¾. Did those machines comprise the combination of the stationary mandrel or work-support, rivet-set

(Testimony of F. K. Simonds.)

bar, loosely-mounted river-sets, traveling carriage, one headrail, pressure wheel or roller having axle-boxes moveable in recesses in said carriage, and the shims or plates adapted to take in said recesses over the axle boxes? A. They did.

Q. 24. Did those riveting-machines comprise a traveling carriage having a pressure wheel or roller mounted therein, a gang of rivet-sets mounted in a holding-bar, a stationary mandrel adapted to support the work under the rivet-sets, mechanism for moving said pressure-roller carriage back and forth along over the rivet-set bar, and means for setting down the pressure-roller against the heads of the rivet-sets in the return or backward movement of the carriage? A. Yes, sir.

Q. 25. Did those machines have in combination with the stationary mandrel or work-support, the rivet-set bar hinged at one end, the supporting-lever to which the opposite end is attached, and the latch arranged to hold down that end? A. Yes, sir.

Q. 26. Did those riveting-machines comprise a gang of rivet-sets mounted in a holding-bar by which they are placed and held in position on a line or lines of rivets to be crushed down and headed in combination with a stationary work-support and a traveling riveting-tool adapted to move over said holding-bar with suitable pressure against the heads of the rivet-sets?

A. Yes, sir.

Mr. HARPHAM.—Take the witness.

(Testimony of F. K. Simonds.)

Cross-examination.

(By Mr. VAN COTT.)

Q. 27. Were the three machines that you say were there alike?

A. Well, there was one small one, one medium, and one large one, the way we termed them down there.

Q. 28. Are they the same in detail?

A. Yes, sir; same principle.

Q. 29. I didn't ask you that. Were they the same in detail?

A. No; when you get down detail, one was single roll and the other two were alike.

Q. 30. Were those the only differences in detail?

A. What?

Q. 31. Were those the only differences in detail?

A. Well, the medium would not take as large a pipe as the large one.

Q. 32. You understand what I mean by "in detail," don't you?

A. In detail they were the same, yes, sir.

Mr. VAN COTT.—That is all I want to ask.

Mr. McKINLEY.—That is all.

WILLIAM L. BELL, a witness produced on behalf of the complainants, being first duly cautioned and solemnly sworn to testify the truth, the whole truth and nothing but the truth, deposed as follows:

(Testimony of William L. Bell.)

Direct Examination.

(By Mr. HARPHAM.)

Q. 1. Please state your name, age and place of residence, and occupation?

A. Age, 44; residence, Los Angeles; occupation, mechanical engineer.

Q. 2. Are you connected with any manufacturing establishment? If so, state the name of it.

A. Manager of the Fulton Engine Works.

Q. 3. How long have you been connected with the Fulton Engine Works, Mr. Bell?

A. Oh, fourteen years next March.

Q. 4. Are you acquainted with J. D. Hooker of this city? A. Yes, sir.

Q. 5. How long have you known him?

A. About the same length of time.

Q. 6. Has he been engaged in business in this city? If so, state what it was.

A. Manufacturing sheet iron pipe.

Q. 7. Did the corporation of which you are manager ever make any pipe-riveting machines for him?

A. Yes, sir.

Mr. VAN COTT.—That is objected to in that form as leading. "For him." I can explain my point. If it was done on written order, of course the written order would be the best evidence. That is getting right down to the nub of the case. I object to that as a leading question.

(Testimony of William L. Bell.)

Mr. HARPHAM.—'M-h-m.

Q. 8. State about what time such machines were made.

A. I have not looked at the date when it was made. I think it was about two or three years after I came here. It might be a year away from that.

Q. 9. That would be, then, in the neighborhood of 1893? A. Yes, I should think so.

Q. 10. In your business, Mr. Bell, you are accustomed to examining patent drawings, are you?

A. I see some occasionally.

Q. 11. Yes. And you do a good deal of drawing, don't you, for your work? A. Yes, sir.

Q. 12. And accustomed to constructing machinery from drawings? A. Yes, sir.

Q. 13. Well, now, will you please look at patent numbered 434,677, issued to William Pardy, as executor of George Pardy, for a pipe riveting-machine, bearing date August 19th, 1890, and state whether or not any of the riveting-machines that you made for Mr. Hooker were constructed like the machine shown in that patent.

Mr. VAN COTT.—I object to that, on the ground that involves a conclusion, that it was made for Mr. Hooker, and there is no competent evidence yet that it was made for Mr. Hooker. Also, incompetent, irrelevant and immaterial.

Mr. HARPHAM.—I will change the form of the question, then.

(Testimony of William L. Bell.)

Q. 14. Did Mr. Hooker ever order from the Fulton Engine Works a pipe riveting-machine like that shown in the letters patent shown you?

Mr. VAN COTT.—I object to that, on the ground that it calls for the conclusion of the witness; that if there was an order in writing, the writing is the best evidence. If it was an oral order, it has not been shown that the order was given to this witness. Therefore, it is incompetent, irrelevant and immaterial.

A. The question is, Did Mr. Hooker ever order a machine like this?

Q. 15. (By Mr. HARPHAM.) Yes.

A. Yes.

Q. 16. Did the Fulton Engine Works ever build a machine for Mr. Hooker like that shown in that patent?

Mr. VAN COTT.—That is objected to, on the ground that it calls for the conclusion of the witness on the point that it was for Mr. Hooker, no foundation being laid for such testimony; incompetent, irrelevant and immaterial.

A. Yes.

Q. 17. (By Mr. HARPHAM.) Did you ever have any conversation with Mr. Hooker in relation to the building of such machine with reference to the Pardy patent? A. Yes, sir.

Q. 18. State, as nearly as you can recollect what that conversation was.

(Testimony of William L. Bell.)

A. Mr. Hooker sent for me to come over to his works, and explained that he wanted to build a machine of a larger size than two machines that he already had in use; and he said that the two machines that he had in use that he had developed—developed those machines with the assistance of Mr. Pardy, George Pardy, who had come from San Francisco, as I recollect, and had made the drawings and plans to suit the conditions of his—the requirements of his work, and that some time after these machines were built that Mr. Pardy had applied for a patent on this machine, and that Mr. Hooker considered that he was the one who had the ownership of the machine, and that he wished to have a figure from me to build this larger machine, and that if there was any claims made against us for any royalty on the machine that he would pay all such claims. Then, afterwards, after we had submitted prices and we finally made a contract—we finally received his order. I don't know whether it was a verbal order or whether it was a written order; but we built the machine and built it to handle, I think, 30 inch diameter pipe three feet long; and some few months afterwards he had us change the same machine again to make it suitable to take pipe five feet long.

Q. 19. In that machine was there the combination of a stationary mandrel or work-support, a gang of rivet sets mounted in a holding-bar, which is laid over the line of rivets with a rivet-set directly on each rivet,

(Testimony of William L. Bell.)

and a traveling pressure wheel or roller having movement along the rivet-set bar and adapted to act upon the heads of the rivet-sets with suitable pressure?

A. Yes, sir.

Q. 20. Was there, in that riveting-machine a stationary mandrel or work-support, a rivet-set bar having a gang of rivet-sets loosely mounted therein and adapted to be raised from the mandrel for inserting the piece of work to be brought down and secured in place over the seam or joint to hold a rivet-set directly upon each rivet of the work, a traveling pressure roller mounted in a carriage to travel along the set-bar over the heads of the rivet-sets, an overhead rail arranged above said set-bar and adapted to hold the carriage down to its works with suitable pressure, and mechanism for moving said carriage over the work between the set-bar and the overhead rail? A. Yes, sir.

Q. 21. Was there in that machine the combination, with the stationary mandrel, of the gang of rivet-sets, the traveling carriage, pressure wheel or roller, overhead rail, screw-shafts, driving-gear, reversely-driven pulleys, driving pulley, and belt-shifting mechanism adapted to be operated on by the carriage to control and reverse the movements thereof? A. Yes, sir.

Q. 22. Was there in that riveting machine the stationary mandrel supported permanently at one end and at the opposite end by a swinging support arranged to be thrown clear of the mandrel to insert and remove tubular work, in combination with the removable rivet-

(Testimony of William L. Bell.)

sets mounted therein and the certering-pins in the set-bar adapted to take through the work and into the mandrel beneath? A. Yes, sir.

Q. 23. Was there in that riveting machine the combination of the stationary mandrel or work-support, rivet-set bar, loosely-mounted rivet-sets, traveling carriage, one head rail, pressure wheel or roller having axle-boxes movable in recesses in said carriage, and the shims or plates adapted to take in said recesses over the axle boxes? A. Yes, sir.

Q. 24. Was there in that riveting-machine a traveling carriage having a pressure wheel or roller-mounted therein, a gang of rivet-sets mounted in a holding-bar, a stationary mandrel adapted to support the work under the rivet-sets, mechanism for moving said pressure-roller carriage back and forth along over the rivet-set bar, and means for setting down the pressure-roller against the heads of the rivet-sets in the return or backward movement of the carriage? A. Yes, sir.

Q. 25. Was there in that riveting-machine the combination with the stationary mandrel or work-support, the rivet-set bar hinged at one end, the supporting-lever to which the opposite end is attached, and the latch arranged to hold down that end? A. Yes.

Q. 26. Was there in that riveting-machine a gang of rivet-sets mounted in a holding-bar by which they are placed and held in position on a line or lines of rivets to be crushed down and headed, in combination with a stationary work-support and a traveling riveting-tool

(Testimony of William L. Bell.)

adapted to move over said holding-bar with suitable pressure against the head of the rivet-sets?

A. Yes, sir.

Mr. HARPHAM.—Take the witness.

Cross-examination.

(By Mr. VAN COTT.)

Q. 27. What was your position with the manufacturing company? A. Manager.

Q. 28. And as such you had the superintendence of the manufacture of whatever was sent out from the factory, eh? A. Yes, sir.

Q. 29. Did you see the machines in Mr. Hooker's factory?

A. Which? The original machines?

Q. 30. The two first machines. A. Yes, sir.

Q. 31. What is the advantage of making—you spoke of a change being made in the machine, which your people made. What was that change?

A. Well, the lengthening. We afterwards lengthened the machine so as to take five feet pipe, is my recollection. This other was three feet.

Q. 32. You say you don't know whether there was a written or oral order for the machine?

A. I can't remember; no, sir.

Q. 33. It was not part of your businesss to receive orders for the concern, was it? A. Yes, sir.

Q. 34. Did you receive the orders?

(Testimony of William L. Bell.)

A. Yes, sir, I received the order. I received the order, and whether there was a written confirmation I don't remember.

Q. 35. No; you don't understand me. Did you receive the orders from customers? A. Yes, sir.

Q. 36. And you don't know now whether there was a written order or not?

A. I could not say whether there was a written order; no.

Q. 37. What was the common practice in your business: To receive written orders or—

A. Receive them both ways. Receive a good many orders verbally. Usually for a machine of that size we received a written order.

Q. 38. I don't understand you now as swearing, that you did receive an oral order from Mr. Hooker.

A. Yes, I received an oral order, but I am not positive about whether it was confirmed by letter.

Q. 39. When do you say you received that order?

A. I have not looked up the date. This came on me rather suddenly or I might have looked up the date. I can look up the date of the order.

Q. 40. Well, was it at the time of this conversation you speak of in which Mr. Hooker claimed that he was entitled to the machine as the inventor?

A. Yes, sir; at that time. I don't know that Mr. Hooker said he was the inventor, but he said he was the man that had furnished the money to develop the machine and make the drawings.

(Testimony of William L. Bell.)

Q. 41. You testified on your direct examination that he said that he had developed the machine and that Mr. Pardy had made the drawings and assisted him in working it out. Is that right?

A. Yes, sir. I don't know whether Mr. Hooker suggested about making the plans, but—He didn't explain all those little points to me. But the impression I had from him was that he bore the expense of developing the machine.

Q. 42. Well, you have given his conversation to the best of your recollection?

A. To the best of my knowledge.

Q. 43. Was Mr. Hooker present in your place at all during the manufacture of this machine?

A. I can't ever remember—I can't remember any particular time of his being there; no, sir.

Q. 44. Well, was he there at all?

A. He has been in our works a number of times, but I could not say whether he came in while that machine was being manufactured or not.

Q. 45. You won't swear that he was not?

A. No, sir; I would not swear that he was not, or that he was.

Q. 46. Did he during the construction of the machine make any suggestions as to the manner of construction?

A. We made a drawing of the machine, and that drawing was, before it was finished, in pencil form. My recollection is it was submitted to them and little feat-

(Testimony of William L. Bell.)

ures, points, gone over to make it as strong and practical a machine as possible.

Q. 47. By "them," you mean whom?

A. Well, Mr. Hooker, and the superintendent of the shop—foreman—called during the discussion; and also the man who had run the other machine, who had charge of the machines.

Q. 48. Well, did those suggestions made by them relate solely to dimensions, or also to details?

A. I think they were mostly dimensions.

Q. 49. You think they were partly as to details?

A. I should say—I can't remember details. I remember dimensions.

Q. 50. You will not swear that he made no suggestions as to details? A. No. sir, I would not.

Q. 51. How long did it take to construct the machine? A. Why, I think about sixty days.

Q. 52. You made your drawings after inspecting the original machines, I suppose? A. Yes, sir.

Q. 3. The drawings were made practically from those first two machines? A. Yes, sir.

Q. 4. (By Mr. HARPHAM.) And the machine was substantially the same machine as those two first machines, except larger and stronger? A. Yes, sir.

Mr. HARPHAM.—That is all.

Mr. VAN COTT.—That is all.

Mr. HARPHAM.—Complainants close their case.

(Testimony of J. D. Hooker.)

It is stipulated by and between the solicitors for the respective parties herein that the reading, correcting and signing of their depositions by the witnesses respectively deposing, are hereby waived.

J. D. HOOKER, a witness produced on behalf of the defendant, being first duly cautioned and solemnly sworn to testify the truth, the whole truth and nothing but the truth, deposed as follows:

Direct Examination.

(By Mr. VAN COTT.)

Q. 1. What is your full name?

A. John D. Hooker.

Q. 2. Where do you live? A. In this city.

Q. 3. And have resided here how long?

A. Nineteen years.

Q. 4. What is your business?

A. At the present time, it is plumbing supplies and pipe business.

Q. 5. You are the president of the J. D. Hooker Company? A. Yes, sir.

Q. 6. Defendant in this suit? A. Yes.

Q. 7. Prior to the organization of that company did you conduct the business yourself? A. Yes, sir.

Q. 8. As the sole owner of it? A. Yes, sir.

Q. 9. You are, of course, familiar with the machine involved in this litigation? A. Quite so.

Q. 10. For pipe riveting? A. Yes.

(Testimony of J. D. Hooker.)

Q. 11. Now, will you state generally the nature of the work you do in riveting pipe?

A. Commencing at the cutting the sheet?

Q. 12. Yes, sir.

A. Well, the first thing we do when we take the sheet, is, it goes to the shears. The shears are set to pattern. The man running the shears cuts the sheet to the size.

Q. 13. You mean by "the sheet," what, Mr. Hooker, please?

A. Sheet of steel. It is thirty by eighty-four usually. Now, if you are making four-inch pipe you cut it one length; if you are making six-inch pipe it is another. It is cut to the gauge. After being but it is passed over to the gang punch, and there the man who runs the punch puts it on the gauge that the foreman has set and punches the holes on both ends, both sides of the sheet. From there it goes to the rolls and is turned on the rolls, to the line there set, to make whatever sized pipe they are making—four, six, eight or ten inches. Then from there it goes to the riveting bar. The riveter takes the sheet, takes the section, and turns it, rounds it up with his hammer; tacks both ends, puts two tack-rivets, one at a third and one at two-thirds the distance.

Q. 14. Let me stop you right there and ask you to explain what that riveting bar is.

A. The riveting bar is a long piece of iron, round iron, about five feet long, and is anchored to a post that

(Testimony of J. D. Hooker.)

is set in the ground about eight feet, to a piece of timber that is double fourteen inches square.

Q. 15. So that the bar stands horizontally?

A. The bar stands horizontal and gives a surface upon which the riveter can do his work. Now, he takes the joint of pipe from the bar, turns it over and sets the rivets through the holes, leaving the butt of the rivet inside the pipe; and then he slides that back onto the riveting bar, and he turns it over so that all the rivets come and stand up straight, like this (showing) along the bar.

Mr. HARPHAM.—"Like this"—showing a row of rivets with the butts down and the points projecting upwardly.

Q. 16. (By Mr. VAN COTT.) So that the butts rest on this mandrel or riveting bar?

A. Yes. The butts must be inside of the joint of pipe.

Q. 17. And rests on the mandrel or riveting bar?

A. Yes, rest on the mandrel or riveting bor. Now, he takes the riveting hammer and he drives that rivet down to make a head.

Q. 18. (By Mr. HARPHAM.) By "that rivet" he means the end rivet.

A. All the way, each one in turn. He drives that down to set out the head, and then when he gets the head down he puts the set over it and strikes that down in order to draw up the rivet as tight as possible and

(Testimony of J. D. Hooker.)

to spread out the head over the pipe. He follows that out in turn clear the whole length of the section of pipe. Now, that being done, he takes one end and spreads it out with his hammer to make a female end of it; then he turns to the other end and he turns that in to make a male end of it; because it is driven pipe and it has to be driven one section into another about an inch and a half or two inches. Then the straight seamer, who has made the straight seam, passes it on to the ground seamer. Do you want the round seamer?

Q. 19. (By Mr. VAN COTT.) No, I don't think that is involved in this case. That is the process of riveting which was used in your shop? A. Yes, sir.

A. Yes, sir.

Q. 20. At the time you were running the business and prior to the introduction of this machine?

A. Yes, sir; is to-day.

Q. 21. (By Mr. HARPHAM.) That is hand-riveting?

A. Hand-riveting.

Q. 22. (By Mr. VAN COTT.) Now, when did you first pay any attention to the question of riveting by machine, approximately?

A. It was about January or February—January of 1887, I think.

Q. 23. Well, now, I wish you would state what you did in reference to riveting by machinery.

A. Well, now, the men struck on me. My riveters, my seamers, my straight-seamers. It takes four

(Testimony of J. D. Hooker.)

straight seamers to keep one round seamer busy. Consequently the number of straight seamers is two to four on small pipe. The cutting of the pipe was mechanical; any body could do it. The punching of the pipe anybody could do; the rolling of the pipe by boys, the passing it to the straight seams—there was hand work. Now, I set about seeing if I could not devise some machine that would get away with Mr. Straight Seamer and do that work. I knew the Risdon Company at San Francisco made large pipe and used hydraulic power. But in using the hydraulic power they also used large hot rivets. Our riveting work was all cold rivets. I studied the matter over in various ways. The round seam bar has over it a rivet—a punch carrier. Here is a picture of it. It runs out here, and there is a punch there. It carries a punch here and set there. Well, I first thought of taking that and making rivet holders all the way through there, set wheels all the way through there. But in that I would gain not much, because it would take longer to set those rivets by using that bar than it would to do it by hand. So I put that aside. Then I thought of using air, the air hammer. But that would be rivet by rivet, rivet by rivet, rivet by rivet, and that would be no expedition. Then I was stalled. But I had seen the car-wheels out back of the works on the siding smash pieces of iron.

Q. 24. On the railroad track, you mean?

A. On the railroad track, freight-cars. And I took rivets like this and put them out on the track and let

(Testimony of J. D. Hooker.)

the car run over them and saw what effect it would have. Well, it would smash them down and smash them off sideways. That would never do for plain riveting. But I conceived that if we put the rivet set through the bar that we had on the round seam stick, like this, and let that wheel run over it, that necessarily the set must go down straight, it could not get away from it.

Q. 25. Now, stopping right there, will you describe that bar a little more closely, the set bar?

A. The set bar on the riveting—

Q. 26. Yes. I mean the one that you conceived the idea of making.

A. Well, it was a long piece of iron, steel, with holes bored in it.

Q. 27. At regular intervals?

A. At regular intervals, just the distance of the punch. It had to conform to the punch.

Q. 28. Yes, and consequently to the holes in the pipe?

A. Yes, the holes in the pipe.

Q. 29. (By Mr. HARPHAM.) Through which the rivets went?

A. Through which the rivets went. Now, to take a bar and make holes so that a rivet set would just come fair over every rivet along in a row, and let those stand up that way and go along and smite them with a hammer would not save any time. The only way I saw to do was to use a rotary motion upon it that would set it down one at a time but still be active. I also thought

(Testimony of J. D. Hooker.)

of taking the principle involved in a piano punch, which we use, to set those rivets all at one time, the same as we punch the holes all at one time. But a punch is set like your fingers, one is long and one is short, another is long and another is short, so that when the punch comes down one goes in, another goes in, another goes in, alternately, and they all reach down through the pipe and you are only punching about four holes at a blow; whereas if you put them in with a single power, the power would be so great it would break your machine. So I could not do that. The only thing, then, that I saw, was if I could get that wheel to run over the top of these sets, well, I thought it over, and then I went to San Francisco and went to Risdon's—

Q. 30. (By Mr. VAN COTT.) Let me ask you one question there. Had you at that time considered how the wheel was to be confined so as to produce the pressure without jumping off the work?

A. No; I hadn't got to that point yet. I was getting at the principle. That was a matter of detail, but the principle was what I was getting at. So I went to San Francisco and I went to the Risdon works to see if they could give me any light. They could not. They showed me their own riveting—hydraulic—but that was for big-diameter pipe. Down here we use small pipe. Then I went out into Hayes valley, where a party had been trying to make a riveting machine by the use of air. But it was a failure, and so I set that

(Testimony of J. D. Hooker.)

aside. Then it occurred to me—now, shall I take up Pardy?

Q. 31. Well, take it up chronologically.

A. When, I met him?

Q. 32. Oh, no, it is not necessary. You had met him before this, had you?

A. I had known him for forty years. He was a frequent visitor at my house, and very intimate with my family. I had known him in the Pacific Iron Works. Being a dealer in iron we naturally came in contact frequently.

Q. 32. Yes.

A. And I had applied for patents through him and obtained them. One was a jack for handling redwood logs, which was used in Humboldt County. And he also obtained a patent for me for the cutting of this pipe. I threw things in his way, because he was a man that was sickly, and afflicted with asthma; could not stand confinement; and he eventually left the Pacific works and went and took an office untown to do patent business.

Q. 33. That was up town in San Francisco?

A. In San Francisco. Now, knowing him so well, knowing him to be a draughtsman, knowing that he had to do with mills, quartz mills, and that class of material, I went to him and told him my situation and asked him if he could give me any light. He said the proposition was a new one to him; he didn't know anything about the riveting. I tried to explain to him what I

(Testimony of J. D. Hooker.)

wanted to do, but he was unable to comprehend me, so I said, "Just come right along with me down to Los Angeles, and I will show you just what I want. I do riveting there, and I can outline to you just what I want to accomplish." So he came down me, and stayed at my house a week or ten days. I took him to the factory daily. I cut up the sheets of iron, steel, rolled them, punched them, had the riveting men show him how they set the rivets down, the round seam, and how it was put together; and I showed him the straight seam was the thing I wanted to accomplish—some means of setting it down. I told him what I had done. And then I outlined to him the movement of a car wheel over the railroad track, and why could not a car wheel run over that beam, or a power that was equivalent to that, and set that rivet down? And I outlined to him that there was the riveting bar itself in position, there were the rivets sticking up; now, put a rivet-holder over those as I had outlined there and deliver the power.

Q. 34. You mean a set-holder?

A. Set-holder. Did I say rivet-holder?

Q. 35. Rivet-holder. Set-holder?

A. Set-holder. To put a power over that to crush that down at one blow as hydraulic riveter puts it down at one single blow, was what I wanted to accomplish; and I thought that by the use of the car wheel on the solid axle, the same as the bar wheel has, driven over it with a pressure, would accomplish it. I sketched it out and worked it over with him, and he said he thought

(Testimony of J. D. Hooker.)

that he could put that stuff together if he had it where he could supervise it daily, and if I would let him take it back to San Francisco, me to pay the bills and pay him for his time, that he would undertake the construction of a machine.

Q. 36. Let me ask you a question right there. At that interview, that first interview, with him in your shop, what, if anything, was said about this overhead rail?

A. That was discussed, to get the power there.

Q. 37. Yes. Well, who suggested it?

A. Well, I suggested it to him. I suggested it to him. Simply an eye beam, just an eye beam put over there the same as you have seen in rolling mill works. They are high, one roll above the other, the upper roll forcing down to make it flat. You make it flat by the upper roll coming down smack on that. That is held at the ends. Now, then, why could not that same power be applied to these rivets? It could be—

Q. 38. Well, now, in other words, at that time you suggested to him this wheel and carriage, with the overhead rail and rollers adjusted in some way at the top of the carriage to confine the wheel to the work.

Mr. HARPHAM.—I object to that, on the ground that it is leading.

Mr. VAN COTT.—Perhaps it is. I withdrawn the question.

Q. 39. What I want, is, not to put any words in your

(Testimony of J. D. Hooker.)

mouth, but I want you to state in detail what parts of this machine were discussed or suggested by you, if any, at that time, to Pardy?

A. Well, the bar was taken up. That was settled.

Q. 40. The set-bar?

A. The bar. The riveting-bar?

Q. 41. Yes.

A. The method of holding the sets over the rivets was taken up, and that was settled; he could work that out. Now, then taking up the wheel and running it over those sets—that was settled. Now, then, to get the power to crush the rivets was the proposition.

Q. 42. Yes.

A. Now, then, how were we going to get what wheel down there? Simply follow out the mechanical operation of a rolling mill.

Q. 43. Yes.

A. Get that power down by a roller above, so—the wheel passing over the rivets was rolling one way. You could not put it on the top of that, because if you did we would have a reverse motion on the plate above.

Q. 44. Yes.

A. Necessarily you must construct a carriage that the wheels would turn by themselves independently of the crushing wheel. Now, then, if you put an eye beam over that and let that car run bottomside up and carry the wheel below, you have got the power.

Q. 45. Yes.

A. Do you get the idea? To regulate the power the

(Testimony of J. D. Hooker.)

boxings over the wheels must be loose and be shimmed to whatever size of iron you might be riveting. If it was eighteen iron it would have to be shut down closer; if it was sixteen iron it would have to have more space; if it was fourteen iron it would be regulated by shims of this character.

Q. 46. Well, now, explain in the record what you mean by "thin sheets of steel"?

A. What I mean by thin sheets of steel, number eighteen is thin. Number sixteen is next heavier. Number sixteen is one-sixteenth of an inch in thickness. Number fourteen is next. In United States gauge. I am speaking of the steel in United States gauge. Number ten, eight, twelve and all those things, are those parts of inches. The thin sheet would be eighteen. The next would be sixteen, heavier; the next would be fourteen, heavier.

Q. 47. The purpose of those shims was to bring the—

Mr. HARPHAM.—Objected to, on the ground it is leading.

Q. 48. (By Mr. VAN COTT.) Well, the purpose of those shims is what?

A. To regulate the distance between the eye-beam against which the power was delivered, to the rivet below.

Q. 49. Yes.

A. You could not do it in any other way that I know of. So that was all agreed upon. Now, then, came the

(Testimony of J. D. Hooker.)

idea of how are you going to move that wheel. The old-fashioned planer solved that at once. You carry that wheel along with just the same screws that you would carry an ordinary planer—back and fourth, back and fourth—applying your power on the gear. That settled that point. Now, apparently, that would accomplish it; and so I was willing to make the venture to see if he could accomplish it. Pardy claimed that if he had it under his supervision up there, that he could see that the work was well done, and I could send him up two or three joints of the pipe and he could have it riveted up there and see how it would work, if it would work at all. So I sent him that—he went back to San Francisco, and he selected a firm by the name of Rix & Kittredge to take up and manufacture this machine under his supervision, myself paying the bills and guaranteeing the account. They were to take their instructions from Mr. Pardy. That machine was made and brought down and put in place. Mr. Pardy came down with it, because he wanted to see it work. But it was unsuccessful.

Q. 50. Now, let me stop you right there. In this conversation which you had with Mr. Pardy and in which you say you outlined these various features of the machine to him, did he at that time make any suggestions, and, if so, what, of specifications for the features that you had proposed?

A. No. Well, I was not satisfied to let the machine stand as it was. So I took the machinist from the ma-

(Testimony of J. D. Hooker.)

chine shop, and together with—myself together with the machinist that riveted these sections, and fixed the bar. The bar that holds the rivet-set would slide off one side and set the rivet in a diagonal shape. That would not do. So the machinist put a holding-pin to keep it in a straight line.

Q. 51. Now, right there, let me call your attention to figure one in this copy of the letters patent involved in this suit, and ask you to locate on figure one the position of that pin?

A. Well, it would be behind that bar, right in there. (Showing.)

Q. 52. Right in here?

A. Yes. That bar you see opens this out. This is the riveting-bar; there is a hinge there; and there is the point of the pin.

Mr. HARPHAM.—Bar b.

Mr. VAN COTT.—The riveting-bar is marked A.

Mr. HARPHAM.—A.

Q. 53. (By Mr. VAN COTT.) A. Is that right?

A. Yes.

Q. 54. And it was at the end of that riveting-bar, beyond the second bar from the right in the frame—second bar from the left in the frame, that the pin was set, was it?

A. The riveting-bar comes out here. You see it extends out there. (Showing.) There is no holes through

(Testimony of J. D. Hooker.)

it here. But in there, just outside of the rivet-sets there, there was made a hole and a pin was set into the riveting-bar sticking up—or into the riveting-bar sticking down, and that pin entered a hole in the set-bar—

Mr. HARPHAM.—B X.

Q. 55. (By Mr. VAN COTT.) Marked B X, and prevented the set-bar from having lateral motion.

A. That is the idea.

Mr. HARPHAM.—The pin referred to is 19?

Mr. VAN COTT.—No, I don't think it is.

Mr. HARPHAM.—Yes, there it is.

Mr. VAN COTT.—That is right; 19.

Mr. HARPHAM.—And shown in dotted lines?

Mr. VAN COTT.—Yes.

Q. 56. Now, I understand you that that pin was put in by your machinist at the shop upon your discovering this lateral movement in the set-bar?

A. Yes.

Q. 57. Where was Mr. Pardy at that time? Was he in Los Angeles?

A. San Francisco. He had very little to do with the working of the machine. Nothing. The whole working out of the utility of the machine was done with Mr. Stellow, the machinist.

Q. 58. That was the machinist who suggested putting this pin in there?

(Testimony of J. D. Hooker.)

A. He is the man who suggested that.

Q. 59. Well, now, proceed?

A. Then we made some pipe and set it out into the field. But when we got it into the ground and put water into it it leaked, showing that the riveting was imperfect. We had to take it up and bring it back to the shop and run it over a round bar of shafting and re-set all the rivets by hand set. Then with dipping the pipe it did service. Now, then, to get those rivets down so as to hold the lap down to prevent leakage through. Mr. Stellow worked at that faithfully with me, and we put on all the power the machine would stand; and after the section was riveted it was taken to the riveting-bar —hand-riveting bar, and the inside lap was laid with the side of the hammer and the outside lap was laid with the side of the hammer, and the bell-end turned out and the spigot-end turned in. By that means we made a tight pipe; and we worked at it until we could turn out about two hundred joints a day of four-inch pipe, single riveted—a single row of rivets. Now, to do that it took one man to tack the joints; it took a boy to put the rivets inside the joint, to pass it on to the machinist, who ran the bull—riveting machine. The boys call it the bull. That was the third man. Now, when we had taken it off from the machine, it went to the fourth man to lay the laps, bell out the bell-end and turn in the spigot-end. That took four men. Now, four men, on the ordinary stakes, would turn out daily seventy-five joints each, which would be three hundred joints.

(Testimony of J. D. Hooker.)

Evidently that was a losing game. So the machine was side-tracked for a time. But frequently now and then we would take it up and work with it again; and this thing we developed.

Q. 60. Now, by "we" you mean who?

A. I mean the shop men. When I say "we" I mean Mr. Stellow and myself.

Q. 61. Yes.

A. We at the shop sought to hold down the laps, the inside lap and the outside lap, by the bar that was on the side of the rivet—the set-holding bar; and at the same time, being held firmly down by the carriage from above, the riveting wheel came along over it. Mr. Stellow claimed that it was too light to do very much work with it, and I agreed with him. But he claimed that if he could have a heavier machine made as we had talked it over that he could make it run to a success.

Q. 62. By "we" you still mean Mr. Stellow and yourself?

A. Stellow and myself. When I say "we" I mean Stellow and myself. For the machine we would set one row of rivets. All pipe six-inch and above was double riveted. There is where the majority of our work was. Now, then, if we could make a larger machine and put in a double row of rivets, because the hand-riveter would require twice the time to set a joint with double rows than he would a single row—we therefore doubled up on the hand-riveting. So, having waded in that distance, I concluded that I would venture another ma-

(Testimony of J. D. Hooker.)

chine and have it made by Mr. Robbins, of San Francisco, because he was the man who made punches for us, who made shears for us, and to whom we sent for tools, and was a regular manufacturer of tools for the making of pipe and working in light iron. I agreed with Mr. Robbins to pay the bill, to let Mr. Pardy oversee the work, and he should be paid along at times as the work went on; and, as the work went on Mr. Pardy asked for the money and I sent it to him, and it was paid to Mr. Robbins, and he handed me a bill receipted in full.

Q. 63. Now, when you were developing the double-row set-bar, where was Mr. Pardy?

A. Why, he was in San Francisco.

Q. 64. And did you consult him at all with reference to that? A. No, he was not where I could.

Q. 65. Now, proceed.

A. Mr. Stellow and myself knew very well that the rivets must stand true and in double line. To do that there would have to be a steel plate put onto the riveting bar, because the soft iron of the stake would give way. So, Mr. Stellow suggested that we channel out the riveting bar and insert a piece of steel so that the head of the rivet should rest upon that bar, and in double rows; that we could just as well set down two rows at one time as another; that to be sure the rivets would stand up straight and slightly flatten the pipe—which it does—nevertheless by giving sufficient lap to the piece of pipe when we cut it we would have room

(Testimony of J. D. Hooker.)

to lay the laps both inside and out and still have double work. In putting it together it would have to be rounded at both ends, belled at one, and make a spigot-end at the other. Mr. Pardy came down. We went over the matter with him, with Mr. Stellow—I mean Mr. Stellow and myself. I took him to the factory and showed him what we had worked at, and he went back and started this machine here, the letters patent, which is the outgrowth of our experimental work with the little machine.

Q. 66. Well, at the time he came down this second time, you explained to him your idea about the double bar, double set-bar.

Mr. HARPHAM.—Object to the question, on the ground that it is leading.

Q. 67. (By Mr. VAN COTT.) State what was said.

A. My object in bringing Mr. Pardy down was that he should confer with Stellow and see what we had accomplished with that other machine; and therefore I brought him down. And we went over the method of putting in a machine to rivet in double rows, and then he went back with the gatherings that we had given him of the way we wanted the thing to do and put the machine together. While both these machines were being made I made frequent visits to San Francisco to see that our—my ideas were being carried out. When the machine was done it was brought down and put into the factory, and I again brought Mr. Pardy down that

(Testimony of J. D. Hooker.)

he should see that we gave the machine a fair show and that he could show us where any defect, or we could show him where there was any defect, in the construction. He came down, and stopped with me every time he came down; looked the machine over and went back. Mr. Stellow took the machine up with me and we went to work, and little by little we perfected it so we could turn out tight pipe.

Q. 68. By "we"—

A. I mean the factory. Our factory could turn out tight pipe.

Q. 69. What I want to get at is, you confine that "we" to yourself and Mr. Stellow?

A. Yes. Well, the factory. I owned the factory, and when I speak of "we" I mean the works.

Q. 70. You don't mean Pardy?

A. No. Pardy is not in it. He is not anywhere in it. He is a thousand miles away.

Q. 71. Yes.

A. Now, then—let me ask if I shall now take up that—if I may—the method of going over and coming back.

Q. 72. I was just going to call your attention to that.

A. We found in the machine that if we set it over this way to do heavy work it would get stalled, being shimmed down too close. That would stop the work, and we would have to run it back. When we ran the machine out over the shim the first time and took it back it was idle work taking it back; it did no work.

(Testimony of J. D. Hooker.)

So Mr. Stellow shimmed it lightly going out, and as it had to go back and he could just as well go back with power he put in shims to carry it down so that it would do half the work going out and half the work coming back. He made the double motion on it and he did it by means of shims, and it lost no time and did better work; and by that means we got the rivets set down tight in most of the pipe.

Q. 73. When and under what circumstances were the automatic shims to accomplish that purpose first introduced into the machine?

A. The Automatic?

Q. 74. Yes, sir.

A. Well, just when that was done I don't know.

Q. 75. Shown on figure six.

A. But it was done by Mr. Stellow. Because of his having to pick up the shims and put them in by hand, he thought a machine could be made there, an automatic matter could be made there that would throw in on the return; and he developed the holding it down on the return; he put those shims in there. Just where that automatic business came in I don't know.

Q. 76. But you are quite certain that he did it?

A. Oh, yes. His idea.

Q. 77. By the device shown in figure six?

A. That is the idea.

Q. 78. Numbered fifty.

A. That is the thing.

Q. 79. Fifty-one and H. That is right, is it?

(Testimony of J. D. Hooker.)

A. That is right.

Q. 80. Now, let me call your attention to figure one, a hook at the end of the riveting bar or mandrel, marked sixteen, and swinging on a pivot marked eighteen, and ask you what its purpose is, and when it was introduced, and by whom, on that machine.

A. The first machine that came down had no method of holding the bar down; and when the wheel came over onto the bar and started to roll over to set the rivet that end of the bar would pitch up with the pressure upon it. So Mr. Stellow took a stick of wood and he put it against the beam above, resting on the bar below, which prevented it from coming up.

Q. 81. That is, at the end of the bar at which you introduced the work?

A. At the end of the bar at which we introduced the work, yes. And I talked it over with him one day. "How can we get rid of that bar, that stick of wood you have got sticking up there?" So we talked it over, and he suggested putting in the catch there, by putting in at the end of the hold bar a bolt, a machine bolt with a square head, and then at the end of the bar he rigged a catch that comes down and catches under the head of the machine bolt and holds it there. When this machine was made that same idea was carried out on this machine, only on the side of it.

Q. 82. By "this machine" you mean the last machine made? A. The last machine made.

Q. 83. Now, let me call your attention to figure one,

(Testimony of J. D. Hooker.)

a prop marked 10, 12, apparently 2. I ask you what the purpose of that is. No, ten; then, that is it. I ask you what the purpose of it is and when and by whom that was introduced?

A. The purpose of it is to give strength and rigidity to the bar.

Q. 84. The riveting bar? A. The riveting bar.

Q. 85. Yes.

A. We had used that in the shop, the same idea, holding both ends of a bar over which we had slid pipe, because if you only hold one end the point of the bar would give way, and necessarily some support must be put under there, and a swinging bar was put in the machine to come up under that riveting bar and hold it, hold against the pressure after the pipe had been put on.

Q. 86. Let me see. What is the pressure exerted by that wheel in passing over the riveting bar and rivets?

A. We run it out with five thousand pounds on this machine, and back with ten thousand pounds.

Q. 87. And the tendency of that five or ten thousand pound pressure would be to sag the unsupported end of the riveting bar, and you put that support in there to prevent that result. That is right, is it?

A. That is right. Yes, sir.

Q. 88. Now, I ask you when and by whom was that that feature of the machine introduced?

A. Why, in the first machine. In the first machine.

Q. 89. That was on the first machine?

(Testimony of J. D. Hooker.)

A. Yes, sir. We must have the bar supported in order to get the pressure.

Q. 90. Well, who introduced it A. I did.

Q. 91. Now, has any machine in your shop, among these three, I mean, ever had this lever and chain to actuate that supporting bar?

A. No, sir. I never saw it.

Q. 92. Well, now, proceed, Mr. Hooker, please. I would suggest that you come down now to the experiments with reference to the rim of the wheel.

A. In setting down the rivets, sets were used of this character (showing). The wheels passing over them would split them off, because they were so hard, and the rivets would be broken. It was a difficult matter to get them tempered just right, and I had great difficulty in finding a person who could make them with the correct temper—and I have not found him yet. Now, the pressure from the wheel being exerted upon that set caused the edge of the wheel to split off. The riveting wheel was made of chilled iron, and case-hardened, but it was not of sufficient strength to withstand the pressure. So I had the wheel taken out and about two inches of it turned down on the periphery and a tire shrunk on there of cast steel. That idea originated to me in this way: The drivewheel of a locomotive has a steel tire upon it, because it does the hardest work on the train. I reasoned that if I applied the same tire to that wheel I should get better results. That was true,

(Testimony of J. D. Hooker.)

for the wheels are used to-day with the steel tire shrunk on.

Q. 93. Where was Mr. Pardy at the time that you completed that idea? A. San Francisco.

Q. 94. And did you consult him at all with reference to it?

A. No. Told him about it. I made frequent visits to San Francisco on matters of business, and always dropped in to see him.

Q. 95. How is the carriage of this machine containing the roller that does the riveting guided to prevent lateral movement?

A. You mean the riveting wheel?

Q. 96. Yes, sir.

A. That is contained in a carriage of four wheels, and the four wheels run along the outside of the riveting bar—of the rivet-set bar, running along on side pieces screwed onto it, and those keep the wheel in the channel over the rivet-setters in the rivet bar.

Q. 97. When and by whom was that feature of those side bars on the rivet-set bar introduced?

A. That, my recollection is, was done by Mr. Stellow.

Q. 98. After the first machine had got there?

A. On the first machine?

Q. 99. On the first machine?

A. On the first machine. This machine is evolved from the first machine.

Q. 100. Well, now, what other difficulties had you

(Testimony of J. D. Hooker.)

with the machine, and, if any, please state how they were overcome and by whom?

A. When anything went wrong the machinist who had it in charge corrected it, or called my attention to it and suggested what could be done, and he had my permission to go ahead and carry out what he deemed should be done. There were many minor details about it that I don't now recall.

Q. 101. They were mere details?

A. They were mere details.

Q. 102. Details of mechanism, and had nothing to do with principle of operation, did they?

A. No. The object was to set those rivets down tight so we had tight pipe.

Q. 103. Now, Mr. Hooker, what, if any, conversation did you ever have with Mr. Pardy relative to letters patent on this machine?

A. Well, he had suggested at times that I take out a patent.

Q. 104. That you take out a patent?

A. Yes. He was a patent lawyer, and of course wanted business. And I wanted to help him. But I said there was no use to take out a patent on it because it was not worth patenting; that up to that time hand work would make it cheaper than machine riveting. We laid some pipe. And it was leaky, and it came to the point where engineers would specify in their specifications "hand-riveted work," barring us, because we used machine work; and we took contracts guarantee-

(Testimony of J. D. Hooker.)

ing that all the work should be hand work. But nevertheless we kept at—I kept at the machine to perfect it to do the work, because I could see no reason why we should not have a good return out of the machine in the prosecuting of our business. The machine was for the purpose of carrying on our business. I didn't seek to have a patent on it because I didn't want to make a machine to sell it; that was not the idea at all. It was to further my industry and turn out with rapidity the best pipe on the face of the earth, which we succeeded—which I succeeded in doing. I defy anybody to make a better piece of pipe than the J. D. Hooker Company. Pardy frequently spoke about my taking out the patent. I objected. I said, "You will have to have a model, and the cost of the model will be three hundred dollars, maybe." "Well," he said, "no, he could make it with detailed drawings." "Well," I said, "Suppose you should get a patent on it. I don't want to sell the machines to anybody. Nobody wants to buy them. There will be no profit in it. And suppose I had a patent. As I understand it—"

Q. 105. Well, do you mean by that "suppose you get a patent," to intimate that he should take out a patent for himself.

A. Of course—not to himself.

Q. 106. No.

A. Not to himself.

Q. 107. That is what I mean.

A. Not to himself. Simply as my agent all the way

(Testimony of J. D. Hooker.)

through was Mr. Pardy. I understood that if anyone wanted those machines as a manufacturer and I had none for sale, that he had the right to go and have one made for his own use as against anything I might do. Therefore, having a patent on the machine, for me, would be no advantage to me that I could see. And I never made applications for taking out a patent, although Mr. Pardy frequently asked me to do it. He was hard up for money, and he said that he could make the drawings for an application, if I would let him, for sixty dollars. I let him have sixty dollars and told him he could make his drawings at his convenience and we would take the thing up later. He never did make those drawings, so far as I know, for I saw him once or twice after that; I believe but once; although I sent him money; and I think the last time that money was sent him was when he was wanting to go up into the Sierras among the pines where he hoped to get relief from his asthma. He went up there, as I remember, staying a month or two, and came back to San Francisco, went to his room on Bush street and never came out alive.

Q. 108. Now, what, if anything, was said by either of you with reference to his taking out a patent for himself.

A. He said that he could take out the patent in his name if I wanted. I said, "How can you do that"? "Well," he says, "if you don't object there is nobody to stand in the way of it. I can take out the patent in

(Testimony of J. D. Hooker.)

my name and assign it over to you if you want to, and I make my fee." I told him we would see about it later. And that was the time—about the time that I told him he could make the drawings. He never claimed the patent to the machine that I know of; never pretended to to me.

Q. 109. By that you mean he never claimed to be the inventor of the machine?

A. Never. So far as I know.

Q. 110. Are you acquainted with Mr. William L. Bell, Mr. Hooker, of this city? A. Yes, sir.

Q. 111 How long have you known him?

A. Oh, known him ten years, I guess, or so; ever since he has been in town. Near neighbor.

Q. 112. What, if any, connection had he with the building of either of these machines in your shop?

A. He built one for me, at my instance, the large machine.

Q. 113. Well, what position had Mr. Bell with the Fulton Engine Works?

A. Manager; general manager.

Q. 114. He has testified in this case, as follows: "Mr. Hooker sent for me to come over to his works, and explained that he wanted to build a machine of a larger size than two machines that he already had in use; and he said that the two machines that he had in use that he had developed—developed those machines with the assistance of Mr. Pardy, George Pardy, who had come

(Testimony of J. D. Hooker.)

from San Francisco, as I recollect, and had made the drawings and plans to suit the conditions of his—the requirements of his work, and that some time after these machines were built that Mr. Pardy had applied for a patent on this machine." Now, calling your attention especially to the language "And that some time after these machines were built that Mr. Pardy had applied for a patent on this machine"; I ask you whether you ever said that to Mr. Bell? A. No, sir.

Q. 115. Did you have any conversation with him concerning the patent on the machine?

A. I did.

Q. 116. What was it?

A. I told him, as he knew, that a patent had been taken out, but by the successor or brother of Mr. Pardy; that Pardy had no interest in it.

Q. 117. No interest in what?

A. In the building of these machines.

Q. 118. Yes.

A. That I wanted he should build me what I wanted him to, and he agreed to do it, and he did it under my supervision, and Mr. Stellow's suggestions; made his own plans for it. I didn't want to go and have Mr. Robbins build it; I wanted it built under our own supervision, and he built the machine.

Q. 119. Now, I call your attention further to the language; "That Mr. Hooker considered that he was the one who had the ownership of the machine, and that he

(Testimony of J. D. Hooker.)

wished to have a figure from me to build this larger machine, and that if there was any claims made against us for any royalty on these machines that he would pay all such claims."

A. I told him I would. The machine was mine, and I didn't propose to be put down that way. Everybody understood it was my machine; known as my machine.

Q. 120. By "my machine" what do you mean?

A. That I was the inventor of it.

Mr. VAN COTT.—You can take the witness.

The further taking of this deposition was now adjourned until Saturday, January 14th, 1905, at 10 o'clock A. M.

J. D. HOOKER, recalled.

Direct Examination Resumed.

(By Mr. VAN COTT.)

Q. 121. I call your attention to page 2 of the specification of the letters patent in suit, between lines 45 and 50, as follows: "In setting the piece of work it is fixed and held by a tapering pin, 20, on the bottom of the set-bar, so placed that it shall take into the last hold in the line of rivet-holes from which the last rivet is omitted until the next joint of pipe is joined to it and the round seam is riveted up." When was that pin put into the machine?

A. Well, during the experimental work. Now, do you mean that holds the bar or holds the pipe?

(Testimony of J. D. Hooker.)

Q. 122. Holds the pipe.

A. You know in riveting a sheet together you have a hole above and below. Now, a drifting pin is as old as the hills. And you get one rivet in there, and then to get the other hole square, you put in a drifting pin and pull that up. He took that idea and made a drifting pin and put it in that held the hole square at the end. That would hold all the others square so that when the wheel that sets down the rivets came along the pipe would not crawl, the holes would all come fair It is simply a drifting pin used in that position, a principle old as time.

Q. 123. Now, then continuing: "At such time of operation, also, the opposite end of the joint is held in place with proper lap by slipping a ferrule or short sleeve over the shank of the last rivet in the line at that end, and this sleeve standing above the rivet enters the hole in line with it in the set-bar, and by pushing out that rivet-set draws the over-lapping ends of the pipe into line." When was that sleeve introduced?

A. That is what I have told you about. He has not got the specification about that correct at all. It is just simply a drifting pin. He has gone away off in that proposition. There is nothing of that character, as he describes there, as I understand it, in the machine. Take a rivet-set and make a punch of the bottom in place of the cup that sets the rivet down, and just drop that in and it goes in through both of the holes and brings the holes square. The riveting bar comes

(Testimony of J. D. Hooker.)

along—that would hardly do; but the later men have cut them off, and the wheel passes right over it now; and when it goes back that hole has not got the rivet in; being at the end of the pipe, it is put in when it comes to the end, and is made into a section.

Q. 124. And that device, you say, was introduced by Mr. Stellow. A. That is Mr. Stellow's.

Q. 125. Is Mr. Stellow living?

A. Mr. Stellow is dead.

Q. 126. When did he die?

A. I think it was in 1893 or 1894; somewhere along there.

Q. 127. Long before the commencement of this action? A. Yes, sir.

Mr. VAN COTT.—Take the witness.

Cross-examination.

(By Mr. HARPHAM.)

Q. 128. You say, Mr. Hooker, that you employed Mr. Pardy to do this work for you? A. Yes, sir.

Q. 129. When did you employ him?

A. As I said in my testimony.

Q. 130. Well, please give us the date again?

A. It was in 1887—the fore part of 1887 is my recollection. Yes, 1887.

Q. 131. What part of 1887?

A. Well, the first part of the year. I should say it was January or February.

Q. 132. What is that?

(Testimony of J. D. Hooker.)

A. January, February or March; first part of 1887. It is fifteen, sixteen years ago. That is my recollection.

Q. 133. (By Mr. McKINLEY.) Eighteen years ago.

A. Eighteen years ago.

Q. 134. (By Mr. HARPHAM.) How long were you engaged in trying to get up a design for a machine of this character before you employed Mr. Pardy?

A. Well, I had worked over it, I guess, for three months.

Q. 135. For three months?

A. Yes.

Q. 136. What agreement did you have with Mr. Pardy in relation to the payment for his services in the matter?

A. Simply I would pay him his charges for the time he was employed.

Q. 137. Did he ever render you any bill for the time that he was employed in the matter? A. No.

Q. 138. Did you ever pay him anything for the time?

A. Yes, sir; overpaid him.

Q. 139. Overpaid him. How much did you pay him?

A. Well, I would be in his office and he would say he was short of money, he hadn't got money to pay his room rent with, and I asked him how much would satisfy him and he would say so much and I would give it to him. I kept no tally of it.

Q. 140. You kept no tally of it? A. No, sir.

Q. 141. You took no receipts for it?

(Testimony of J. D. Hooker.)

A. No, sir. He never made any other demands for money on me except in that way.

Q. 142. How long was Mr. Pardy engaged in this work of designing and perfecting this machine?

A. Well, he was not continuously engaged in it; but he had the charge of it, I should say, three months, looking after it. Some days he would look after it and some he would not. It would only take a few minutes a day to go over to the machine shop and see how the work was getting along.

Q. 143. Who prepared the plans for the machine from which the machinists worked?

A. I sketched out the plans to Mr. Hardy and he took them away with him. He then made the plans mathematically by which the machine was made.

Q. 144. Do you know how long he was engaged in working out those plans? A. No, sir.

Q. 145. At the time that you employed Mr. Pardy to do this supervision, as you state, were there any machine-shops in Los Angeles? A. Yes, sir.

Q. 146. What machine-shops were there here?

A. There was the Fulton Engine Works, and the Union Foundry—Union Machine-Shop, the Baker Iron Works.

Q. 147. Were any of those machine shops competent to do this work?

A. Hardly, for they were not tool makers. In working material, certain machine-shops make a specific business of making tools to a temper which will do work.

(Testimony of J. D. Hooker.)

Q. 148. What part of the machine requires temper in pipe-riveting? A. Rivet sets.

Q. 149. Rivet sets.

A. And the set bar.

Q. 150. That is a very small portion of the machine, isn't it?

A. Yes, but the machine, the sets have to be turned to fit nicely. All the machine work is done to fit closely, snugly, and not give any creeping, and the temper must be good.

Q. 151. Well, the Baker Iron Works and the Fulton Iron Works and the other machine shop that you speak of could do that work here pretty well, could they not?

A. No, sir.

Q. 152. Why could they not?

A. Well, because they didn't have the appliances for doing it.

Q. 153. During the time that Mr. Pardy was at work upon this machine at San Francisco how many trips to San Francisco did you make?

A. It is impossible for me to tell; it is so long ago. I used to go to San Francisco about once in sixty days.

Q. 154. What is that?

A. I used to go to San Francisco about once in sixty days.

Q. 155. Once in sixty days?

A. Sometimes oftener. Depend whether I had business up there to take me there or not.

(Testimony of J. D. Hooker.)

Q. 156. Well, now, what is your best recollection in relation to this matter of the construction of this machine, how many times did you consult with Mr. Pardy at San Francisco in relation to the machine as it was being built, this first machine?

A. This first machine; not the one you have a patent on?

Q. 157. The first machine.

A. The first machine, well, I think I was there four or five times.

Q. 158. Four or five times?

A. Yes, sir; in the Rix & Kittridge shop.

Q. 159. And you say that it took about three months to build the machine?

A. Yes, sir. That is my recollection. It wouldn't take that if they had gone right to work and worked at it, but they built it along little by little, little by little.

Q. 160. Did you make any suggestions to the machinists who were in charge of the construction of the work in relation to how the work should be made?

A. Well, what do you mean by "suggestions"?

Q. 161. Give any directions as to how the machine should be constructed?

A. I explained to them the result that I wanted to accomplish, and laid out that line of old principles, and I wanted them brought into line and work as we had outlined it. Further than that I could not give any instructions.

(Testimony of J. D. Hooker.)

Q. 162. You say that you did this yourself personally to the machinists that were building the machine?

A. Well, I talked it over with Mr. Pardy and the machinist, the man that was building it.

Q. 163. Who was the man that was building it?

A. I would not go beyond Mr. Pardy to give directions over his shoulders. I don't know the men's names who were building it. It was built by Rix & Kittridge. Mr. Rix had something to do with it.

Q. 164. Did you make any suggestions in relation to how the machine should be built to Mr. Rix?

A. Not other than the plan.

Q. 165. You did not present that plan to him yourself, did you?

A. No, sir. Mr. Pardy presented it to him.

Q. 166. And Mr. Pardy made the plan that was presented to Mr. Rix, did he not?

A. He made the plan after the sketches I had given him, following those lines.

Q. 167. Did you explain to Mr. Rix that you were the inventor of the machine?

A. I didn't think it was necessary for me to. I don't remember that I did.

Mr. HARPHAM.—I think that is all.

Redirect Examination.

(By Mr. VAN COTT.)

Q. 168. Did Mr. Pardy, in your presence, ever claim to Mr. Rix that he had invented the machine?

(Testimony of J. D. Hooker.)

A. Mr. Pardy never claimed in my presence any right to the machine.

Q. 169. You have testified that there were no machine shops in Los Angeles at that time capable of building this machine?

A. Not in my judgment. Of course, they have grown since. The fact that the Fulton Engine Works enlarged their plant, got in different talent in it, and were doing work for us, and had accomplished the fact of making a good punch—because a punch is just as essential as a set—and could temper them there, that is the reason I took it up with Mr. Bell to make the larger machine.

Q. 170. Well, the fact is that you selected the San Francisco concern because in your judgment that concern could do it better than any concern here?

A. Yes.

Mr. HARPHAM.—That is rather leading.

Mr. VAN COTT.—Well, that has gone before.

The WITNESS.—That is the fact.

Mr. VAN COTT.—I will withdraw it if you object to it.

Mr. HARPHAM.—It is certainly objectionable as leading.

Mr. VAN COTT.—I will withdraw the question.

Q. 171. You testified, I think, the other day, that you had paid all these bills for the construction of that machine? A. Every one.

(Testimony of J. D. Hooker.)

Mr. VAN COTT.—Well, that is all. We will rest.

Mr. HARPHAM.—I will call Mr. Hooker as our witness.

J. D. HOOKER, recalled, on behalf of the complainant, testified as follows:

Direct Examination.

(By Mr. HARPHAM.)

Q. 1. Mr. Hooper, will you please look at those letters? This letter dated, "Los Angeles, Cal., October 10, 1887," is that in your handwriting? A. Yes, sir.

Q. 2. And is that your signature?

A. Yes, sir.

Q. 3. This letter dated Los Angeles, Cal., October 14th, 1887, is that your handwriting? A. Yes, sir.

Q. 4. This letter of date October 20th, 1887?

A. Yes, sir.

Q. 5. And this of October 22d, 1887?

A. Yes, sir; my handwriting.

Q. 6. And your signature? A. Yes, sir.

Q. 7. This of October 24th, 1887?

A. Yes, sir.

Q. 8. And this of October 26th, 1887?

A. Yes, sir.

Q. 9. And this of October 29th, 1887?

A. Yes, sir.

Q. 10. And this of November 25th, 1887?

A. Yes, sir.

(Testimony of J. D. Hooker.)

Q. 11. And this of December 23d, 1887?

A. Yes, sir.

Q. 12. And this of December 28th, 1887?

A. Yes, sir.

Q. 13. And this sheet which has a pencil date of January 5th, being part of the letter?

A. That is my handwriting.

Q. 14. There is no year on it, but from the context I should judge it was in 1888. This one of January 19th, 1888? A. Yes, sir.

Q. 15. This one of February 1st, 1888?

A. Yes, sir.

Q. 16. This of July 17th, 1888? A. Yes, sir.

Q. 17. This of March 16th, 1888? A. Yes, sir.

Q. 18. This one of 3/19/88? A. Yes, sir.

Q. 19. This one of March 24th, 1888?

A. Yes, sir.

Q. 20. This one of March 29th, 1888?

A. Yes, sir.

Q. 21. This one of April 10th, 1888?

A. Yes, sir.

Q. 22. This one of April 11th, I guess it is, isn't it? I should think so. April 11th, 1888?

A. Yes, sir.

Q. 23. This one of April 30th, 1888?

A. Yes, sir.

Q. 24. This one of July 20th, 1888?

A. Yes, sir.

Q. 25. This one of May 6th, 1889?

(Testimony of J. D. Hooker.)

A. Yes, sir.

Q. 26. And this one of July 23d, 1889?

A. Yes, sir.

Q. 27. And this of July 24th, 1889?

A. Yes, sir.

Q. 28. These letters which I have now shown you, Mr. Hooker, were letters written by you to Mr. Pardy relating to the machine, were they?

A. I think so. There may have been some other things involved in them—punches and shears and rolls.

Mr. HARPHAM.—We will offer these in evidence and ask that they be marked—so much of them as relates to the manufacture of this type-riveting machine. There are some matters that do not relate to that that we don't care to have go in; but all that part of the letters which has any bearing on the structure and manufacture of this pipe-riveting machine we offer in evidence.

Mr. VAN COTT.—We have no objection to such parts of the letters as relates to the making of this machine, of course.

Mr. HARPHAM.—That is all.

Cross-examination.

(By Mr. VAN COTT.)

Q. 29. Now, referring to your letter to Mr. Pardy of July 17th, 1888, you say, "Again, as to the machine. I understand I am to own and control the patent upon their paying you—" what is that?

(Testimony of J. D. Hooker.)

A. Well, it should be "my paying."

Mr. HARPHAM.—Well, "upon them paying you," it is written.

Q. 30. (By Mr. VAN COTT)—(Continuing.) "Upon them paying you a fair and reasonable sum for all your time and labor and what will be just and fair between us." Now, what was the occasion of your writing that to him?

Mr. HARPHAM.—I object to that, upon the ground that there is no ambiguity in the language, and that it speaks for itself.

Mr. VAN COTT.—Answer the question.

A. It is evident to me that we had some talk about the machine, about patenting it. He wanted to take the patent out, and if he had his compensation for his work that is all he could ask, except the attorney's fee. And that is the idea I intended to convey in that.

Mr. VAN COTT.—That is all.

(The letters last offered are marked Complainants' Exhibit 5-L. L. to Complainants' Exhibit 29-L. L., inclusive.)

S. H. GOWEN, a witness produced on behalf of the complainants, in rebuttal, being first duly cautioned and solemnly sworn to testify the truth, the whole truth and nothing but the truth, deposed as follows:

(Testimony of S. H. Gowen.)

Direct Examination.

(By Mr. HARPHAM.)

Q. 1. Mr. Gowen, what is your name, age, and place of residence?

A. F. H. Gowen; age, 49; residence, 436 East Twenty-first.

Q. 2. You are acquainted with J. D. Hooker?

A. Yes, sir.

Q. 3. How long have you known him?

A. Since 1887.

Q. 4. Were you acquainted with George Pardy in his lifetime? A. I was.

Q. 5. How long did you know him?

A. Oh, about two or three months.

Q. 6. What business was Mr. Hooker engaged in when you first knew him?

A. In the sheet steel and pipe business.

Q. 7. Manufacturing steel-pipe? A. Yes, sir.

Q. 8. Did you ever work for him? A. Yes, sir.

Q. 9. How long?

A. Worked from 1887 until 1903.

Q. 10. How long have you followed the business of pipe-making? A. Since 1880—Oh, 1870.

Q. 11. Will you look at those letters patent, numbered 434,677, and state whether or not you ever used a pipe machine like the one illustrated and described in these letters patent? A. Yes, sir, I have.

Q. 12. Where? A. J. D. Hooker Company.

(Testimony of S. H. Gowen.)

Q. 13. When was that machine first used?

A. I think it was in 1888, if I remember right; to the best of my recollection.

Q. 14. Who built the machine, if you know?

A. I don't know. It was built in San Francisco.

Q. 15. Who brought the machine down here?

A. Why, it was brought there to the shop. I don't know. It was shipped to J. D. Hooker Company.

Q. 16. Who put the machine up?

A. Why, Pardy.

Q. 17. George Pardy?

A. Yes. This George Pardy is the one that is dead, isn't it?

Q. 18. Yes, sir. A. Yes.

Q. 19. Were any changes made on the machine after it was put up?

A. Oh, there was adjustments made, I think. There was no material change made in the machine, that is, in the principle of the machine.

Q. 20. Did the first machine that was put up there work? A. Not satisfactorily for a while.

Q. 21. Was it made to work satisfactorily?

A. Yes.

Q. 22. Who made it work satisfactorily?

A. Why, Pardy, with my assistance.

Q. 23. Were any changes made on that machine by Mr. Hooker?

A. Not only in adjustments. The principle—there was no change made in the principle of it.

(Testimony of S. H. Gowen.)

Q. 24. You say that first machine was made according to the plans and specifications shown in these patents?

A. Yes, sir. That is, it appears to me it is. It looks like the same machine.

Q. 25. Well, was that first machine the same as the machines that were subsequently used by Hooker in the pipe business? A. The principle was, yes.

Q. 26. Was there any substantial change in the construction of the machine after it was installed?

A. No.

Q. 27. And you say the first machine was the same in construction as the second and third machines?

A. Yes, with just, as I stated before, material changes made in the adjustments of it, but the principle of the machine was still there, and always has been. For instance, the bars, the riveting bars, was changed; the scope of them was changed. That is all. But the original head and the machine—the principle of the machine was not changed any.

Q. 28. And you say whatever changes were made were made there by George Pardy to make it operative?

A. Yes.

Q. 29. And he had the machine operate in a satisfactory manner before he left? A. He did.

Q. 30. And how long was he at the works engaged in making the first machine work satisfactorily?

A. Oh, I should say he was on and off there different times a good part of six months, I should say; something

(Testimony of S. H. Gowen.)

in that neighborhood. I don't remember just exactly. He was there several times.

Q. 31. Were any changes made in that first machine by Mr. Stellow? A. No.

Q. 32. Were any changes made on any of the pipe riveting machines that were used by J. D. Hooker made by Mr. Stellow?

A. Not only just simply in the adjustments.

Q. 33. In the adjustments? A. That is all.

Q. 34. What do you mean by "in the adjustments"?

A. Why, the shifting bars were changed slightly, and it was made to reverse a little quicker or little slower. Just small material changing that would occur on any machine, you know.

Q. 35. Just such changes as are ordinarily found in adjusting a new machine?

A. Yes, That is all.

Q. 36. To do its work properly?

A. That is all.

Q. 37. But the principle of the machine—

A. Has never been changed.

Q. 38. Has never been changed? A. No, sir.

Mr. HARPHAM.—That is all.

Cross-examination.

(By Mr. McKINLEY.)

Q. 39. When you say that Pardy was there six months, Mr. Gowen, you mean it was six months between his first visit, and his last visit?

(Testimony of S. H. Gowen.)

A. Yes.

Q. 40. And he was there occasionally during that period?

A. Yes. He was there off and on.

Q. 41. You are not in the employ of the J. D. Hooker Company now? A. No, sir.

Q. 42. Haven't been since what time?

A. Not since 1903.

Mr. McKINLEY.—That is all.

Redirect Examination.

(By Mr. HARPHAM.)

Q. 43. You worked with that machine during all the time that it was in the J. D. Hooker Company's place?

A. Yes, sir; it was under my supervision during the time I was there. When I left it the machines were there, the three of them, in good condition and running in good order. That is, not all three running together, you know, but then first one and then another. Now, in that little machine—I don't know whether you want this as testimony or not.

Q. 44. Just state that.

A. After they got the second machine, which was manufactured in San Francisco and set down, I took the bar, that is, the stake, that goes into the bottom, and had that reduced down to make 4-inch pipe, and we used that altogether after that for 4-inch pipe, and only for 4-inch—4-inch or 5-inch. The second machine that came in there took the precedence of all of the work.

(Testimony of S. H. Gowen.)

Q. 45. And you say the second machine was like the first, was it, except stronger?

A. Yes, sir; the same thing, only larger.

It was stipulated by and between the counsel for the respective parties, that the reading, correcting and signing of the deposition by the witness are waived.

Mr. HARPHAM.—Complainants object to the taking of any testimony on behalf of the defendant, on the ground that the complainants have put in their rebuttal testimony and there is no provision of law entitling the defendant, to take testimony at this time, after the rebuttal testimony has been introduced by the complainants.

Mr. VAN COTT.—That is the only ground that you put it on?

Mr. HARPHAM.—I don't put it on the ground of any want of notice or anything of that kind.

Mr. VAN COTT.—Just on the ground that we have no right to any further testimony?

Mr. HARPHAM.—No.

J. D. HOOKER, recalled on behalf of the defendant, testified as follows:

Direct Examination.

(By Mr. VAN COTT.)

Q. 1. Now, Mr. Hooker, at the time of these various transactions with reference to this riveting machine,

(Testimony of J. D. Hooker.)

you had books and papers, I suppose, containing the records of your business? A. Yes, sir.

Q. 2. And where did you have those?

A. Well, I had them in my office at the works.

Q. 3. In the city of Los Angeles?

A. Yes, in the city of Los Angeles.

Q. 4. What has become of those books and papers?

Mr. HARPHAM.—I object, on the ground it is irrelevant and immaterial, and not rebuttal to anything that has been brought out by the complainants in their rebuttal testimony.

A. In 1895, my store was burned up, and in the office—the whole books and letters, and so forth, were outside of the office and were burned, and I have lost the book of—the ledger and communications and drafts and all the details of this work from which I might refresh my memory.

Q. 5. (By Mr. VAN COTT.) Have you made search for the various sketches of the machine, details of the machine, which you have already testified that you made?

A. I took the bookkeeper and went over in the vault that we have now that is there in the basement to see if we could find anything by which we could follow it up, but nothing can be found.

Q. 6. That search was made subsequent to the fire you speak of? A. Yes.

(Testimony of J. D. Hooker.)

Q. 7. And where, to the best of your recollection, did you keep memoranda of that sort?

A. Why did I keep that?

Mr. HARPHAM.—This goes in all subject to the same objection?

Judge McKINLEY.—Yes, sir.

A. Well, I had my letter-books and I had my ledgers and I had old letters, and I had no room in the safe to keep them and I necessarily had to put them in boxes and pack them away on the outside, and there is where that material was, and that was burned up.

Q. 8. (By Mr. VAN COTT.) Now, sir, I call your attention to a letter, being an exhibit introduced by the complainants, dated October 14th, 1887, written by you to Mr. George Pardy, in which you say, among other things, that you enclose your check or draft for $300. Will you state whether you did enclose such check or draft? A. Doubtless.

Q. 9. And for what purpose?

A. To pay the bills of constructing the work—the machine.

Q. 10. I ask you with reference to complainants' exhibit dated November 25, 1887, being a letter written by you to Mr. George Pardy, and in which you state that you enclose your check or draft for $200—for what purpose did you make that remittance?

A. To pay the necessary expense. To pay Pardy and to pay the construction on the machine.

(Testimony of J. D. Hooker.)

Q. 11. I call your attention to complainants' exhibit dated December 28, 1887, letter from you to George Pardy, in which you state that you enclose your check or draft for $500. For what purpose was that remittance made?

Mr. HARPHAM.—I object to that upon the same ground as the other objection, and also on the further ground that there is no ambiguity about the letter and it speaks for itself—does not need explanation.

A. For payment of construction of the machine.

Q. 12. (By Mr. VAN COTT.) I call your attention to complainants' exhibit dated July 24, 1889, being a letter written by you to George Pardy, in which you state that you enclose your check or draft for $22.50. For what purpose was that remittance made?

Mr. HARPHAM.—Same objection.

A. Well, it would look from the sum that it was to pay some particular bill. What that bill was, I can't remember.

Q. 13. (By Mr. VAN COTT.) I call your attention to complainants' exhibit dated July 24, 1889, being a letter from you to George Pardy, in which you state you enclose your check or draft for $100?

A. What is the date of that?

Q. 14. July 24th, 1889. For what purpose was that remittance made?

(Testimony of J. D. Hooker.)

Mr. HARPHAM.—Same objection.

A. If my memory serves me, he told me he wanted to go into the mountains and he hadn't the means, and would I help him; and my recollection is that I sent him that hundred dollars that he could go up to Alta, or up in the Tahoe region among the pines for his health. And I think he went up there and after he came back died. I never saw him alive after I wrote him that letter. No account was ever rendered to me.

Q. 15. (By Mr. VAN COTT.) Now, I call your attention to complainants' exhibit dated October 10, 1887, being a letter from you to Mr. Pardy, in which you say: "Your letter 8th received. Glad to hear you are sure you can make the machine. Go ahead with all possible dispatch. Do not lose any time," and so on, and so on. Can you recall how long prior to that, if at all, you had seen Mr. Pardy in reference to this machine?

A. What is the date of that?

Q. 16. October 10, 1887.

A. Well, that letter was written after Mr. Pardy—I had been up there and talked the matter over with Mr. Pardy and had brought him down to Los Angeles and we had gone over it and made sketches innumerable and I had shown him what we wanted to do and I had given him sketches, quite a number of which I had of my own, and he took them with him back, and I asked him to assemble these things together with the principles laid out; and his letter doubtless to me was to the

(Testimony of J. D. Hooker.)

effect that we could assemble that and make a machine, and if he could do it I wanted it done as quick as he could.

Q. 17. Do you know Mr. William Pardy?

A. I met Mr. William Pardy once for about two minutes.

Q. 18. Where was that, sir?

A. Well, my recollection, impression, is that it was in George Pardy's old office in the Haywood Building, on the third floor. And my meeting with him came about in this way. General Dickinson is a member of my wife's family by marriage and I used to make my headquarters in old Dickinson's office. Pardy was next door, and I had a great deal of communication with Pardy through that building, through that door. And I asked Dickinson, my recollection is, where they had buried Pardy. He said he didn't know, but his brother was there and could tell me; and I went to the office, where ever it was—it might have been across the street, or it might have been in the building. I judge from that that it was over in the Safe Deposit Building. I don't remember. I went and asked him, "George is dead now. Where did you lay him away?" And he told me. And I can't say where he said. I just stepped inside the door, and was not in the room two minutes. And the disposition of the body of George Pardy was the only thing that was brought up that I have any recollection of.

Q. 19. Well, will you state whether or not anything

(Testimony of J. D. Hooker.)

was said at that time about this riveting machine and George Pardy's connection with it?

A. None whatever.

Q. 20. Now, at any time had Mr. William Pardy, or anybody now using or connected with George Pardy's estate, made any demand upon you with reference to this machine? A. Never.

Q. 21. I mean prior to this conversation?

A. Oh, no. No, never saw them. Never saw William Pardy until that time. Never knew him.

Q. 22. You have stated, have you, all who were present on this occasion when you saw Mr. Pardy?

A. Just Mr. William Pardy. He stood with his back to me as I came in, he was writing at a desk, standing up; and he turned as I came in, and I said, "Is this Mr. Pardy's brother?" He turned around and we had a few words, and I went out.

Q. 23. Well, was a woman by the name of Albertine Hasler there at that time?

A. There in the office?

Q. 24. Yes.

A. No, not that I know of.

Q. 25. Well, had you seen her at any time prior to that with reference to this machine?

A. With reference to the machine?

Q. 26. Yes, sir. A. Never.

Q. 27. Or with reference to George Pardy's connection with the machine? A. No, never.

(Testimony of J. D. Hooker.)

Q. 28. Or any bills that had been rendered to George Pardy for the construction of the machine?

A. No, never. Shall I tell when I did see her?

Q. 29. Well, a little later, yes. A. Yes.

Q. 30. Now, we have here the deposition of William Pardy, who swears that he is the executor of the estate?

A. Who? William?

Q. 31. William Pardy, who swears he is executor of the estate. And, among other things, he says that he went through the papers of the estate of the deceased, and he identifies a check, which I now show you, marked Exhibit No. 3, I think it is, dated May 11, 1888. Did you ever see that check?

A. It has got my endorsement on it. I doubtless did, yes, sir.

Q. 32. Yes. Well, can you state what that check was for?

A. Well, it was to return some money to me of mine which Pardy held. In making the first machine there was a rebate allowed on the machine. The amount of it I don't remember, but it was over a hundred dollars. And it might have been that that was returned to me for that reason. Or, it might have been that I had a draft on San Francisco for $150, and he asked me for fifty, and I endorsed my check over to him and took his in return for the hundred dollars. In any event, it was my money.

Q. 33. Well, did you ever at any time borrow money from George Pardy? A. Never did. Never.

(Testimony of J. D. Hooker.)

Q. 34. You frequently went to San Francisco?

A. Yes, sir.

Q. 35. And did not carry a bank account there?

A. Not at this time. I do now.

Q. 36. Well, what facilities had you for borrowing money there?

Mr. HARPHAM.—Object to that as incompetent and immaterial, and not connected with any issue involved in the case.

A. Simply to make my draft, my check, on Los Angeles, and take it to the First National Bank, and they would cash it without a word.

Q. 37. (By Mr. VAN COTT.) You had been engaged in business in San Francisco previous to that?

A. Forty years. Oh, yes. Twenty-five years.

Q. 38. And had, as a matter of fact, cashed checks in that way before this?

Mr. HARPHAM.—Same objection.

A. Yes, sir. Never had occasion to borrow money. Never.

Mr. HARPHAM.—And on the further ground it is leading.

Mr. VAN COTT.—Well, that is probably true, if you want to lose the time over it. What is your answer?

Mr. HARPHAM.—He answered it.

Judge McKINLEY.—Better ask it again in proper form and get the answer.

(Testimony of J. D. Hooker.)

Q. 39. (By Mr. VAN COTT.) Well, now, to put it in another way, state what your practice was when you were in San Francisco with reference to obtaining money when you needed it?

Mr. HARPHAM.—Object to that, on the ground it is irrelevant and immaterial, and not in rebuttal of anything that has been brought out by the complainants.

A. My habit was, to save exchange, to get a draft from the First National Bank here on the First National in San Francisco. I saved exchange by it. If I wanted more money, if I found up there I needed up there to use it, I simply went to the First National Bank there and made my draft, which they cashed, and gave me the money. That is before I opened a bank account after coming down here. For years I had carried my bank account with them; done a large business.

Q. 40. (By Mr. VAN COTT.) By "they" you mean the First National Bank of San Francisco?

A. The First National Bank of San Francisco, of which Mr. Murphy is the president.

Q. 41. Now, Mr. William Pardy states in his deposition that according to his recollection a conversation took place some time in September, following his brother's death, in 1889, with Pardy, as executor "and in his endeavor to settle with Mr. Hooker the question of Mr. Hooker's relations with my brother, George Pardy came up." Will you state whether or not, in that month, or at any time subsequent to the death of

(Testimony of J. D. Hooker.)

George Pardy you had such a conversation with Mr. William Pardy, and, if so, what?

A. Never had any conversation of that character at all.

Q. 42. Now, you have stated that prior to the time when you say you did have a short interview with William Pardy, no claim had been made by either William Pardy or either of these claimants or anybody connected with the estate, that money was owing to George Pardy's estate on account of this machine.

Mr. HARPHAM.—Object to that, on the ground that it is leading and not in rebuttal.

Mr. VAN COTT.—I have not asked the question yet. I am only stating what he has already sworn to.

Q. 42. (Continued.) Now, I ask you whether any such claims were ever made at or about the time mentioned in this deposition?

Mr. HARPHAM.—Objected to as leading, and not in rebuttal.

A. No claim ever made, no demand ever made upon me by them; never.

Q. 43. (By Mr. VAN COTT.) He further states: "In the controversy arising I stated to Mr. Hooker that there was two ways of settlement with the estate; either to pay a fair and proper compensation to it for the riveting machine spoken of, or to allow the estate to take out a

(Testimony of J. D. Hooker.)

patent upon it." Did he ever make any such statement to you? A. Never.

Q. 4. He further answers, in response to the question: "What reply did Mr. Hooker make in relation to the statement that you have just detailed, if any? A. He replied, 'You can take out the patent.'" Did you ever make any such statement to him?

A. Well, I am not insane. I don't think I should give a man a verbal order to go ahead and do business for me, not knowing him, being a stranger. I never gave him any such order.

Q. 45. Did you ever make any such answer to him?

A. Never.

Q. 46. Now, the question is asked of him: "Where was Mr. Hooker at this time?" The answer is, "In room 19 of the Safe Deposit Building, corner of California and Montgomery street, San Francisco." Is that the same building to which you have alluded?

A. No, that is across the street. My recollection was it was in George Pardy's office next to General Dickinson; but there is a possibility that the office was across there and I went to it on seeing notice on the door they had moved. But I am not clear on it. My impression is it was the old office.

Q. 47. In the course of his deposition, a sketch was shown to Mr. William Pardy which he identifies as having found among the papers of the estate. The sketch is marked "Complainants' Exhibit 5"—what are those initials? "F.L.O."? "F.L.O., N.P."

(Testimony of J. D. Hooker.)

A. What does that "F.L.O." mean?

Q. 48. That means the initials of the notary public, to identify it as the exhibit given on that day.

A. Oh.

Q. 49. Did you ever see that sketch before?

A. I don't recall it.

Q. 50. No.

A. It is a sketch that carries the car wheel, but it is not the sketch from which the machine was made. You see that this sketch is made throwing down the rivet sets as if the rear car wheel was coming along there.

Q. 51. Well, now, let me ask you right here, doesn't it show two operations, the first operation by the big wheel and the second operation by the little wheel following and completing the crushing?

A. It shows an erroneous idea, which could not be carried out. The wheel that throws down the rivets was made in the center right under that, and that wheel sets down the rivets. These wheels do not set down the rivets that he has got made there at all. That is his first idea. That is the one we worked upon. The rivets had to be put into a slot and was down straight. And he was running, you see there, a regular carriage of a car, and he is trying to set that rivet down with a car wheel. This is to carry the balance of the carriage up here by which you could shim it down. But the wheel that sets down the rivets is located right in there, and is to to-day.

(Testimony of J. D. Hooker.)

Mr. HARPHAM.—Pointing to the center of the sketch between the wheels.

The WITNESS.—That is nothing.

Q. 52. (By Mr. VAN COTT.) Now, is or is not that sketch similar, in a general way, to many others that were made during the time that Pardy was here with you?

Mr. HARPHAM.—Objected to, upon the ground it is leading.

A. Very similar. He made various sketches, carried out various ideas. Some we threw out and some we adopted, and finally assembled the machine, carrying down the rivet set upon the rivet as shown here, but the method of setting the rivet set down is not shown there. That don't amount to anything.

Q. 53. (By Mr. VAN COTT.) Now, in what material respect does that sketch differ from the one which you have testified to as having been originally furnished to George Pardy by you, if any?

Mr. HARPHAM.—Objected to, on the ground that it is irrelevant and immaterial, and not in rebuttal of anything brought out by the complainants.

A. Now, you ask me that question, "In what respect"?

Q. 54. (By Mr. VAN COTT.) Read the question to the witness again. (Question 53 read to the witness by the Special Examiner.)

(Testimony of J. D. Hooker.)

A. Well, we made so many sketches that I can't tell what the other were, nor wherein it would differ.

Q. 55. Well.

A. This is a very imperfect thing, just a scratch.

Q. 56. Let me recall your memory, Mr. Hooker, to the fact that you testified that you had conceived the idea of crushing the rivet sets by the use of car wheels.

A. Yes.

Q. 57. That car wheel to be on a carriage confined to its work by an overhead beam?

A. That is it. Yes, sir—

Q. 58. And that you made a sketch and gave it to Mr. George Pardy embodying, in general, those ideas. Do you recollect your testimony to that effect?

A. Yes, yes.

Q. 59. Well. Now, how does that differ from that sketch?

Mr. HARPHAM.—Objected to as leading and not rebuttal.

A. Well, in the main it is the same thing, excepting the wheel that sets the rivets.

Q. 60. (By Mr. VAN COTT.) Well, that is what I want.

A. The bar is here, the overhead beam is here, the carriage is here; but the wheel that sets the rivets does not appear on it.

Q. 61. Now, did you ever meet a woman in San Francisco by the name of Albertine Hasler?

(Testimony of J. D. Hooker.)

A. Yes, if that is the person with whom George Pardy was associated. I don't know her first name.

Q. 62. Well, we have the deposition of Albertine Hasler. A. I knew a Miss Hasler.

Q. 63. In which she testifies that she is the Miss Hasler complainant in this action. A. M-h'm.

Q. 64. And states that she met you at a certain time in San Francisco. She says: "When he came to see Mr. Pardy I was assorting papers belonging to the estate, and Mr. Hooker came in at that time."She then says that she was present at the time Mr. William Pardy and Mr. Hooker had a conference in the Safe Deposit Building. Then the question is asked: "What was said by Mr. Pardy? What was said by Mr. Hooker, as near as you can recollect and what was said at that conversation relating to this pipe-riveting machine matter?" and she answers: "Mr. Pardy said to Mr. Hooker that there were two ways of settling this. One was for Mr. Hooker to pay to the estate of George Pardy a certain amount for his labor, invention, and so forth, and the other was that we would take out a patent, and Mr. Hooker replied 'Get the patent." Did you see Miss Hasler in company with Mr. Pardy on that or any occasion?

A. I did not.

Q. 65. Was any such question ever put to you by Pardy in Miss Hasler's presence?

A. There was not.

Q. 66. Did you ever state to George Pardy, in the presence of Miss Hasler—

(Testimony of J. D. Hooker.)

Mr. HARPHAM.—You mean William Pardy, not George Pardy.

Q. 67. (By Mr. VAN COTT.) I beg pardon. William Pardy, in the presence of Miss Hasler, the words which she here states?

A. Positively no. I did not.

Q. 68. Now, she further testifies with reference to the check, exhibit 3—she is asked: "When did you see that check? A. When I had a conversation myself with Mr. Hooker. I showed him this check and I showed him some of the bills that Mr. Pardy had paid for the construction of the first machine."

A. First machine?

Q. 69. Did you ever have such a conversation with her? A. Never.

Q. 70. Did she ever show you that check?

A. Never saw the check from the day I cashed it to the present day.

Q. 71. Did she ever show you bills that George Pardy had paid for the construction of the first machine?

A. Never. I don't do business with women.

Q. 72. She is further asked: "Did you have any conversation with Mr. Hooker yourself in relation to this statement of bills paid by Mr. Pardy on Mr. Hooker's account in relation to this check for a hundred dollars? A. I showed him the bills that had been paid by Mr. Pardy, and I showed him that check, and Mr. Hooker said he didn't know anything about the bills. He

(Testimony of J. D. Hooker.)

didn't say anything about the check." Did she ever have such conversation? A. Never.

Q. 73. Or make any such statement to you?

A. Not to my knowledge.

Q. 74. Or show any such bills to you?

A. Not to my knowledge.

Q. 75. And being further examined about the check, she is asked in whose handwriting the pencil memorandum "Borrowed money" on the back of the check is, and she says; "I dare say it is Mr. William Pardy's. I don't know who wrote it. I didn't notice that. Q. Now, you said that you know that Mr. George Pardy loaned Mr. Hooker this money. How do you know? A. Well, Mr. Hooker used to come to the city, Mr. Pardy always was here and he told me of it; and he said that time that Mr. Hooker was short, 'and I loaned him a hundred dollars.'" Did you ever have any conversation with George Pardy about your being short? A. Never.

Q. 76. Or did you ever borrow from him this specific sum of a hundred dollars?

A. Never borrowed from him the sum of ten cents. Never had occasion to.

Q. 77. Well, did Miss Hasler ever say to you that George Pardy had told her you had borrowed a hundred dollars from *her*. A. Never.

Q. Did you ever have any conversation with Miss Hasler as to how much you had paid George Pardy?

A. Never.

(Testimony of J. D. Hooker.)

Q. 79. She states, in answer to the question as to any other conversation she has had with Mr. Hooker about this matter, "Well, he told me that he paid $150 to Mr. Pardy for his services; but I knew he had not, and so I shook my head." Did you ever tell her you had paid him $150.

A. Never. I had no occasion to. I don't do busines that way.

Q. 80. Did you ever meet a young man by the name of William S. Pardy, a nephew of George Pardy?

A. Not to my recollection.

Q. 81. We have the deposition of William S. Pardy, who swears that he is George Pardy's nephew.

A. Nephew of William S. Pardy?

Q. 82. Nephew of George Pardy, a son of William Pardy.

A. I never knew he had a nephew. Nephew of George Pardy, son of William Pardy?

Mr. HARPHAM.—Yes.

The WITNESS.—No, I never knew him, never knew he had a son.

Q. 83. (By Mr. VAN COTT.) In his deposition, William S. Pardy swear that he has previously seen the sketch marked "Complainants' Exhibit 5," and he states in answer to the question when he saw it and where: "Yes, I have seen this sketch before, at the office of my uncle, George Pardy, which was at 402 Montgomery street, in the latter part of the year 1887. Q. Please

(Testimony of J. D. Hooker.)

state the circumstances under which you saw that sketch." He then testifies: "I called at his office and he introduced me to Mr. Hooker, with whom he was conversing at the time, and they talked for quite a while, and after they got through their conversation my uncle George sat down and made this sketch during the afternoon. Q. What Mr. Hooker was there? A. Mr. J. D. Hooker of Los Angeles. Mr. Hooker was telling my uncle that he would like to get a riveting machine that would rivet pipe, and that if he could get up such a machine, he could make some money out of it." Did you ever have any such conversation with William Pardy in the presence of William S. Pardy?

Mr. HARPHAM.—You mean George Pardy, in the presence of William S. Pardy?

Mr. VAN COTT.—I beg your pardon. I got it confused. Thank you.

A. Never in my sane moments. Never had anything of the kind. It is all a myth.

Mr. VAN COTT.—I will ask the Special Examiner to repeat the question and ask Mr. Hooker for an answer yes or no.

(Question 83 repeated by the special examiner.)

A. No, sir.

Q. 84. He continues: "Well, my uncle at that time referred to a pipe riveting-machine that was at the Richmond Iron Works, and Mr. Hooker said that it

(Testimony of J. D. Hooker.)

wouldn't suit his purposes. He said he had seen it, that he knew of that machine." Was anything of that sort—

A. No, sir.

Q. 85. —ever said between you and George Pardy in the presence of William S. Pardy?

A. Never. I was not accustomed to discuss my business in the presence of strangers.

Q. 86. Well, later in his deposition in his cross-examination, he fixes the date of this conversation as probably in October. Did you have any such conversation with George Pardy in the presence of William S. Pardy in October? A. No, sir.

Q. 87. 1887? A. No, sir.

Q. 88. Do you remember a man by the name of S. H. Gowan? A. Yes.

Q. 89. Who was he?

A. Foreman in my works, pipe works.

Q. 90. You say he is dead?

A. No, no. Sam Gowan is still living. Stellow is dead.

Q. 91. Yes, I remember Stellow is dead.

A. Sam Gowan was the Superintendent, and he is the man that had the strike and led the men out of my works, and was an enemy to the machine.

Q. 92. You say he was an enemy to the machine?

A. He was an enemy to the machine.

Q. 93. And he is not now with you?

A. No, sir.

(Testimony of J. D. Hooker.)

Q. 94. Well, what are his relations towards you when he left there?

A. Amicable, I guess. I never allowed him to handle the machine, and he never did one turn with it. "Amicable"—if leading a strike was amicable. He went out, led a strike.

Q. 95. Was he discharged at the time that he struck?

A. Yes, sir.

Q. 96. And he never returned?

A. No, sir.

Q. 97. Well, that is what I mean. What, if anything, did he have to do with the installment of this machine?

A. He didn't have anything to do with the installment of the machine?

Q. 98. What, if anything, did he have to do with the experiments with this machine?

A. He didn't have anything to do with the experiments of the machine. The most he could have had to do with it was putting the wheels on the shaft to carry the belt over to the machine.

Q. 99. What, if anything, did he have to do with the installment of or experiments with the first two machines? A. Nothing.

Q. 100. Nothing?

A. No. What he had to do was to cut the pipe to its diameter, have it punched and rolled and furnished to the machine. Then it was taken up by people—workmen—over whom he had not the control, run

(Testimony of J. D. Hooker.)

through the machine, riveted, and then sent back to the straight seamers. He had nothing to do with the management or handling of the riveting machine. I dared not trust him.

Q. 101. Now, he is asked, in question 43, on his redirect examination: "You worked with that machine during all the time that it was in the J. D. Hooker Company's place?

A. Yes, sir. It was under my supervision during the time I was there. When I left the machines were there, the three of them, in good condition and good running order." Is that true, that he worked with that machine during all the time that it was in your place?

A. It is not. The machines were in good running order, not through his care.

Mr. VAN COTT.—That is all.

Cross-examination.

(By Mr. HARPHAM.)

Q. 102. Who did have charge of these machines, if Mr. Gowan did not? A. The men that ran them.

Q. 103. Who were they?

A. Well, I can't call the names now. Stellow was one. Well, there were four or five of them. I can't recall the names.

Q. 104. Look at this sketch which you have testified about, marked, "Complainants' Exhibit 5." What does this little round ring about in the center of the sketch

(Testimony of J. D. Hooker.)

and midway and a little above the two wheels of the carriage show? A. Shows a bearing

Q. 105. Shows a bearing? A. Yes, sir.

Q. 106. Well, now, just look around—Don't you see the outline of a wheel of which that is the central bearing coming in just inside of those two outer wheels that run over the rivets?

A. I see that wheel now. I didn't see it before.

Q. 107. Does not that show that that is to bear on these central rivets to depress them and set them?

A. There is an indication that that is down and that is coming down.

Q. 108. Yes, sir.

A. I was looking at this one here. This carries it below.

Q. 109. And that is done by that central wheel there, isn't it?

A. Yes, done by that central wheel.

Mr. HARPHAM.—That is all.

The WITNESS.—Yes, sir. There is the sketch of it in there.

Redirect Examination.

(By Mr. VAN COTT.)

Q. 110. Well, now, still looking at the sketch, it is a fact, is it not, that one of these small wheels is shown at a position further from the overhead beam than the others and that the car is tilted?

(Testimony of J. D. Hooker.)

A. I don't get your idea.

Q. 111. Now, here; just look at the right-hand small wheel. A. Yes.

Q. 112. That apparently rests on the heads of the crushed rivets, doesn't it? A. Yes, sir.

Q. 113. And the other rests apparently at the surface of the bar? A. Yes.

Q. 114. The rivet set bar? A. Yes, sir.

Q. 115. And the line of the frame of the carriage—

A. Yes.

Q. 116. —is at an angle— A. Yes.

Q. 117. —with the top surface of the rivet set bar?

A. Correct.

Q. 118. Showing the car at an angle?

A. Yes, showing the hind wheel set down to the rivet. You can see where it has depressed the rivets there.

Q. 119. Now, let me ask you, is there any such feature as that in the present machine? A. No, sir.

Q. 120. Was there any such feature as that—

Mr. HARPHAM.—One moment. I object to that, on the ground that it is not rebuttal, and is irrelevant and immaterial.

Mr. VAN COTT.—Why, it is immediately in connection with the question that you have asked him.

Mr. HARPHAM.—I have not asked him anything about the carriage, except that central wheel.

(Testimony of J. D. Hooker.)

Q. 121. (By Mr. VAN COTT.) Was there any such feature as that in the sketches, which you originally made for Mr. Pardy's use? I mean with that arrangement of rear small wheels and front small wheels and frame of the carriage at an angle with the top surface of the rivet set bar?

Mr. HARPHAM.—Same objection.

A. There was not.

Mr. VAN COTT.—That is all.

Mr. HARPHAM.—That is all.

Judge McKINLEY.—That closes our testimony.

It was stipulated by and between the counsel for the respective parties that the reading, correcting and signing of the deposition by the witness are waived.

[Endorsed]: Filed Sep. 30, 1906. Wm. M. Van Dyke, Clerk. Chas. N. Williams, Deputy.

Complainants' Exhibit No. 1—L. L.

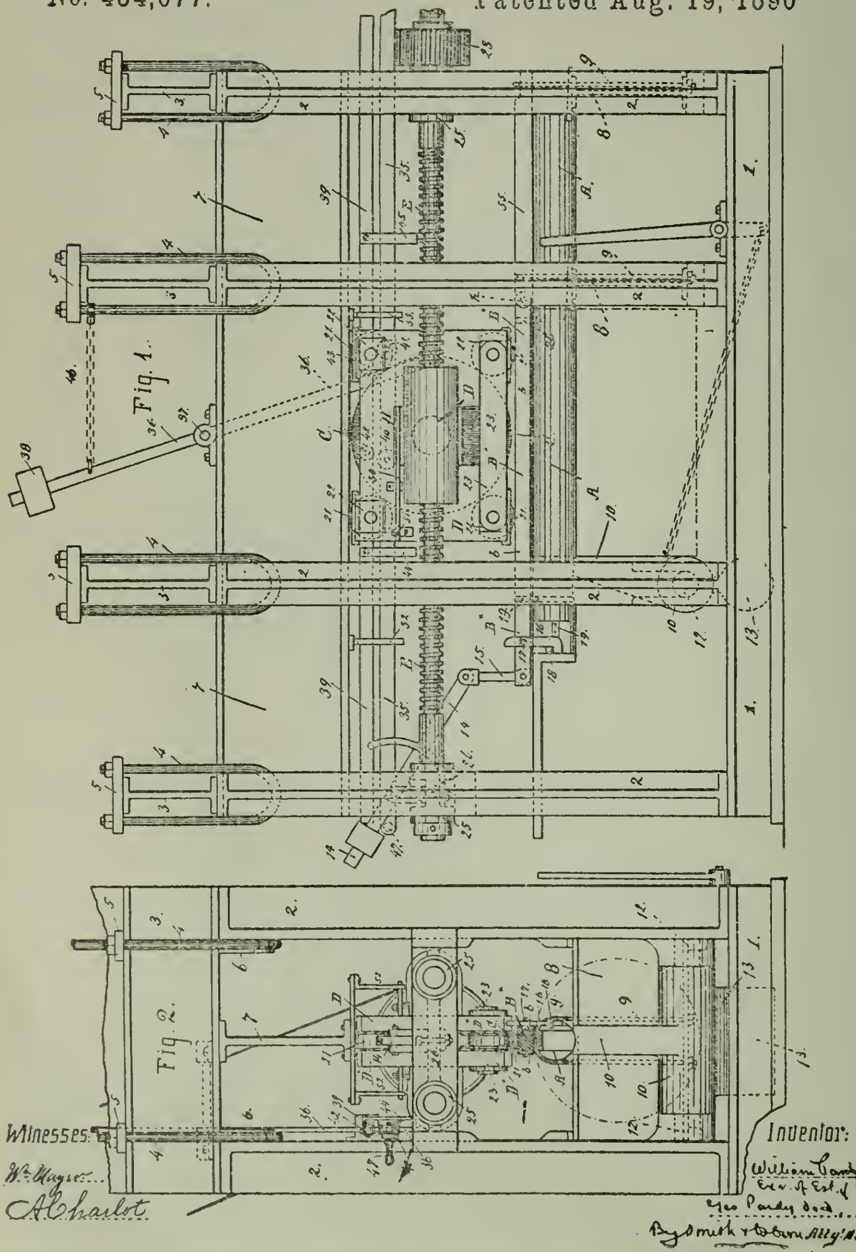
(No Model.) 2 Sheets—Sheet 1.

G. PARDY, Dec'd.

W. PARDY, Executor.

RIVETING MACHINE.

No. 434,677. Patented Aug. 19, 1890.



(No Model.) 2 Sheets—Sheet 2.

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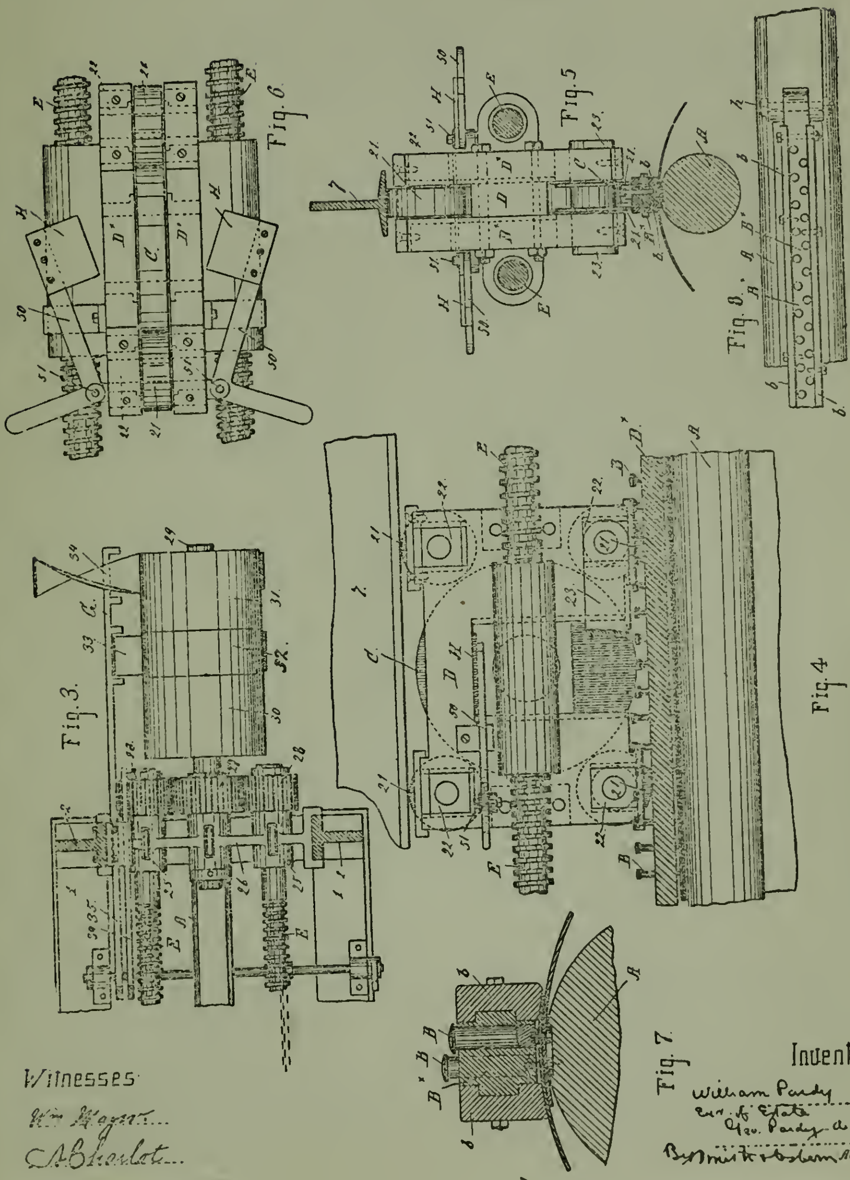

Witnesses:

[illegible]

[illegible]

Inventor:

William Pardy
Exr. of Estate Geo. Pardy, dec'd.
By Smith & Osborn, Atty's.

UNITED STATES PATENT OFFICE.

ILLIAM PARDY OF SAN FRANCISCO, CALIFORNIA, EXECUTOR OF GEORGE PARDY, DECEASED.

RIVETING-MACHINE.

SPECIFICATION forming part of Letters Patent No. 434,677, dated August 19, 1890.

Application filed December 16, 1889. Serial No. 334,008. (No model.)

To all whom it may concern:

Be it known that GEORGE PARDY, late a citizen of the United States, residing in the city and county of San Francisco, State of California, did invent certain new and useful Improvements in Riveting-Machines, of which the following is a specification.

This invention relates to riveting-machines for all kinds of tubular work, such as sheet-metal cylinders, small boilers, and tanks, metal tubes, and piping; and it consists in certain construction and combination of stationary mandrel or support for the work, a gang of rivet-sets, and a traveling riveting-tool operating to crush and head the rivets by pressure, as hereinafter fully described, producing a machine for setting and fixing a line or lines of rivets along a seam or joint of considerable length at one operation.

The accompanying drawings, forming a part of this specification, represent an improved riveting-machine constructed according to the present invention for the special work of fixing two rows of rivets along the seams of sheet-metal piping.

Figure 1 is a side elevation, and Fig. 2 is an end view, of the machine, looking toward the left-hand side of Fig. 1. Figs. 3 to 8, inclusive, represent the principal parts and mechanisms in detail on a larger scale. Fig. 3 is a top view of the reversing-gear that operates the traveling riveting-tool. Figs. 4, 5, and 6, show the riveting-tool in side view, end view, and top view. Fig. 7 is a vertical cross-section through the stationary mandrel or work-support and the rivet-sets and holding-bar, and Fig. 8 shows the same parts in top view.

The principal parts of this machine consist of the stationary mandrel A, on which the piece of work is supported, a gang of rivet-sets B, Fig. 4, corresponding in number and arrangement to the rivets along the seam or joint of the work, and a pressure wheel or roller C, mounted in a traveling carrier D, having movement between the guide-rails over the line of work and pressing upon the heads of the rivet-sets with sufficient force to crush down and head the rivets upon which the rivet-sets act. The riveting-roller at each complete operation is moved twice over the gang of the rivet-sets, first in one direction to crush down the rivets and then back over the line again to head up and finish the end, and in connection with the roller or its carrier there is provided means to maintain suitable pressure of the roller upon the rivet-sets during such return movement. Automatic reversing-gear controls the movement of the carriage D and changes the direction of travel at the end.

The parts of the machine-frame consist of the bed 1, Fig. 1, the posts or uprights 2 2, and the cross-beams 3 3. The posts are bolted down to the bed in two rows, leaving suitable space between the rows to take in the work to be riveted, and the overhead beams joining the tops of each opposite post are fastened by stirrup-bolts 4 4 and strap-washers 5 5. Each bolt takes a half-round lug 6, cast on the inner side of the post, and the washers straddle the beam. A deep center beam 7, Fig. 2, with the top and bottom flanges, is fixed against and supported by these cross-beams longitudinally through the center space in the frame. Two other cross-beams 8 8, below the deep center beam, are fixed between the two pairs of posts at the rear end of the frame. All beams are what are called "deck-beams." The mandrel or work-support A rests at one end on the cross-beams 8 8, and is secured to them by stirrup-bolts 9 9; but the front or opposite end is supported by a swinging prop-bar 10, that is arranged to be swung back out of the way when introducing and removing the piece of work. This prop is hinged at 12, and the face of the mandrel where the prop bears against such cut-away part is cut away on a curve corresponding to the curve described by the end of the prop. The counter-balance 13 below the center of movement brings the prop into upright position when released after being turned down.

B*, the set bar or part that holds and places the rivet-sets B B B, is a bar or plate having a number of holes for the rivet-sets and finished flat on the top, but concave on the bot-

tom. The sets B are made of hardened steel with a slight increase in diameter at the top, giving sufficient taper to prevent them from dropping through the holder when that part is raised, and each set has a concave point corresponding to the shape of the rivet-head it is intended to form. The set-bar is pivoted at *h*, Figs. 1 and 8, and is raised and lowered on this point of attachment in setting and removing the piece of work, and the bottom face of the bar is curved in cross-section to agree with the average curvature of the cylinder or piece to be riveted.

In a machine constructed for work of comparatively small diameters—say piping or tubing from six to twenty-four inches in diameter—the curvature for a fifteen-inch pipe could be taken, while for large work the bottom of the bar could be practically flat.

Steel side strips *b b*, bolted or welded on the bar B×, stand above the face of the bar to take the pressure of the carriage wheels or rollers. The front end of the set-bar is suspended from the end of the weighted lever 14 by link 15, Fig. 1, the weight being adjustable on the lever to slightly overbalance and tend to raise the bar. Against the action of this weight the latch 16 holds down the end of the bar. This latch is a hook pivoted at 17 to the set-bar and projecting a short distance above the bar at the upper end, while the hook takes under a pin 18 on the side of the mandrel. A friction-plate 19, between the hook and the flattened side of the mandrel, holds the hook at any point when thrown back clear of the pin. The function of this latch is to prevent the front end of the set-bar from tipping up when the riveting-tool is pressing down on the opposite end beyond the point where the set-bar rests on the piece of work before the roller has come fairly over the seam at that end of the pipe. A tapering pin 19, projecting from the bottom of the set-bar, takes in a hole in the mandrel beneath and accurately centers the rivet-sets over the rivets in the work. In setting the piece of work it is fixed and held by a tapering pin 20 on the bottom of the set-bar, so placed that it shall take into the last hole in the line of rivet-holes from which the last rivet is omitted until the next joint of pipe is joined to it and the round seam is riveted up. At such time of operation, also, the opposite end of the joint is held in place with proper lap by slipping a ferrule or short sleeve over the shank of the last rivet in the line at that end, and this sleeve standing above the rivet enters the hole in line with it in the set-bar, and by pushing out that rivet-set draws the overlapping ends of the pipe into line. This ferrule is picked out of the hole in the set-bar before the riveting-tool reaches that point in the line of seam, and the displaced rivet-set is returned to place. The ferrule has a slight taper, in order to enter the hole easily.

The carriage of the riveting-wheel is formed of the two slabs D× D×, fixed at suitable distance apart to give room in the center for the small carrying-wheels 21 21 and the riveting-wheel C, or the frame of the carriage may be cast in one piece. Openings at the top and bottom are provided for axle-boxes 22 of the top and bottom carrying-wheels, and also an opening in the center of each side for the boxes of the wheel C. As these center openings tend to weaken the carriage, the strengthening-bars 23 23 are fixed across the carriage over the axle-boxes, as seen in Figs. 1 and 2. On the sides of this carriage are brass screw-nuts or boxes for the screw-shafts E E, that move the carriage. In this movement the upper sets of wheels travel against the bottom flange of the deep center beam, and the lower wheels run on the raised side strips *b* on the rivet-set bar, which forms a track or rail for that purpose.

Journal-boxes 25 25 on the cross-bars 26 26 at each end of the machine support the screw-shafts, and motion is given to both shafts by the spur-gears 27 28 28, Fig. 3.

The driver 27 is fast on the counter-shaft 29, on which are two loose pulleys 30 31, separated by a third pulley 32, fast on the shaft. One of these loose pulleys carries a straight belt 33 and the other a cross-belt 34 from a main-line shaft, and from either one of these belts the shaft 29 is driven by shifting the belt from its carrying-pulley to the driving-pulley 32.

In connection with the belt-shifter G and automatic shifting mechanism is arranged to change the direction of motion by or from the movements of the carriage. This mechanism consists of the long slide-bar 35, connecting at the outer end with the belt-shifter and extending along at one side of the frame, the lever 36, pivoted at 37 on the top of the center beam, the lower end of which lever sets against the side of the bar 35, while the end above the pivot is overweighted by the weight 38. A second slide-bar 39, above and parallel with the bar 35, is moved by the carriage and acts upon the lever 36 to throw it over the center, by means of which the principal slide-bar is moved and the belt-shifter worked. The lever 36 plays between the two sets of rollers 40 41 42 43 on the slide-bars 35 39. (Seen in Fig. 1 in dotted lines, because they are behind the carriage, and in end view, Fig. 2.) Two stops 44 45, depending from the upper bar in the path of the carriage—one in front and the other behind it—move a bar 39 when struck by the carriage, and as the roller of the bar which is behind the lever moves the lever over beyond the center the weighted upper end at such time acts to throw out the lower end with force against that roller on the lower slide-bar which is in front of the lever. Thus the upper slide-bar moves the weighted lever, and that part in turn operates

to throw the shifting lever through the medium of the lower slide-bar. The stops are so adjusted that the motion of the screw-shaft is arrested and the carriage stopped, or it is reversed and the carriage moved back to the starting-point at the end of the travel. The chain 46 holds the lever from throwing over too far. A handle 47 is provided on the front end of the slide-bar 35 for working the belt-shifter by hand.

In the operation of riveting the crushing and heading is partly done in the forward travel of the carriage and is afterward finished by the return movement, and consequently the riveting-roller requires to be set more closely down to the work in the backward travel. This is accomplished by the use of shims or plates H H, inserted between the tops of the journal-boxes of the riveting-roller and the frame of the carriage at the proper time. These prevent the riveting-wheel from rising as high as before and set it down closely against the partly-presssd-down rivet-sets.

The shims are set in and drawn out mechanically by the following-described means: The horizontally-swinging levers 50 50, pivoted at 51 51, Fig. 6, to lugs on the outer side of the carriage, have the shims H fixed on the end nearest the frame in position to enter the side openings over the journal-boxes, and their other ends are bent outward from the pivots to set in the path of depending stops 52 53, Fig. 1, that are fixed to the under side of the center beam, one in front of the other behind the carriage. The stops are properly set to throw in the shims when the riveting-wheel drops down after passing over the last of the rivet-sets in front, previous to the return movement of the carriage, and they are drawn out immediately after the wheel returns over the first set in the rear. The bar 55 on the top of the mandrel, in line with the rivet-set bar, forms a track for the carriage after it leaves the end of the set-bar. This bar has about the same height and width as the set-bar.

In the operation of this machine the cylindrical work is tacked together by a rivet at each end to hold the piece in shape and the rivets are stuck in all along the seam, filling every hole but one at the end. The piece is then placed on the mandrel with seams and rivets properly centered, and the rivet-set bar is lowered and fastened down at the front end by the latch. The carriage is started forward by throwing the proper belt upon the driving-pulley, and by traveling over the gang of rivet-sets first forward and then back again to the starting-point the whole number of rivets along the seam are crushed down and headed.

Having thus fully described his invention, what he claims, and desires to secure by Letters Patent, is—

1. The combination of a stationary mandrel or work-support, a gang of rivet-sets mounted in a holding-bar, which is laid over the line of rivets with a rivet-set directly upon each rivet, and a traveling pressure wheel or roller having movement along the rivet-set bar and adapted to act upon the heads of the rivet-sets with suitable pressure, as hereinbefore described.

2. In a riveting-machine, a stationary mandrel or work-support, a rivet-set bar having a gang of rivet-sets loosely mounted therein and adapted to be raised from the mandrel for inserting the piece of work and to be brought down and secured in place over the seam or joint to hold a rivet-set directly upon each rivet of the work, a traveling pressure-roller mounted in a carriage to travel along the set-bar over the heads of the rivet-sets, an overhead rail arranged above said set-bar and adapted to hold the carriage down to its work with suitable pressure, and mechanism for moving said carriage over the work between the set-bar and the overhead rail.

3. In a riveting-machine, the combination, with the stationary mandrel, of the gang of rivet-sets, the traveling carriage, pressure wheel or roller, overhead rail, screw-shafts, driving-gear, reversely-driven pulleys, driving-pulley, and belt-shifting mechanism adapted to be operated on by the carriage to control and reverse the movements thereof, as described.

4. In a riveting-machine, the stationary mandrel supported permanently at one end and at the opposite end by a swinging support arranged to be thrown clear of the mandrel to insert and remove tubular work, in combination with the removable rivet-sets mounted therein and the centering-pins in the set-bar adapted to take through the work and into the mandrel beneath.

5. The combination of the stationary mandrel or work-support, rivet-set bar, loosely-mounted rivet-sets, traveling carriage, one head-rail, pressure wheel or roller having axle-boxes movable in recesses in said carriage, and the shims or plates adapted to take in said recesses over the axle-boxes. substantially as and for the purpose described.

6. In a riveting-machine, a traveling carriage having a pressure wheel or roller mounted therein, a gang of rivet-sets mounted in a holding-bar, a stationary mandrel adapted to support the work under the rivet-sets, mechanism for moving said pressure-roller carriage back and forth along over the rivet-set bar, and means for setting down the pressure-roller against the heads of the rivet-sets in the return or backward movement of the carriage.

7. In combination with the stationary mandrel or work-support, the rivet-set bar hinged at one end, the supporting-lever to which the opposite end is attached, and the latch ar-

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ged to hold down that end, substantially described.

3. In a riveting-machine, a gang of rivet-s mounted in a holding-bar by which they placed and held in position on a line or es of rivets to be crushed down and headed, combination with a stationary work-sup-rt and a traveling riveting-tool adapted to ve over said holding-bar with suitable pressure against the heads of the rivet-sets, substantially as described.

WILLIAM PARDY,
Executor of the estate of George Pardy, deceased.

Witnesses:
EDWARD E. OSBORN,
A. M. CHARLOT.

[Endorsed]: Complts. Ex. No. 1. L. L. No. 1125. U. S. Cir. Ct. So. Dist. of Cal. Wm. Pardy et al. vs. J. D. Hooker Co. Complainants' Exhibit 1. Leo Longley, Special Examiner. Filed Sep. 30, 1905. Wm. M. Van Dyke, Clerk. Chas. N. Williams, Deputy.

Complainants' Exhibit No. 2—L. L.

In the Superior Court, in the City and County of San Francisco, State of California.

Department No. 9—Probate.

In the Matter of the Estate of
GEORGE PARDY,
Deceased.

Decree of Settlement of Accounts and Final Distribution.

William Pardy, Executor, of the Estate of George Pardy deceased, having on the 17th day of February, A. D. 1890, rendered and filed herein a full account and report of h— administration of said estate, which account was for a final settlement, and having with said account filed a petition for the final distribution of the estate.

And said account and petition this day coming on regularly to be heard, proof having been made to the satisfaction of the Court that the clerk had given notice of the settlement of said account and the hearing of said petition, in the manner and for the time heretofore ordered and directed by the Court.

And it appearing that said account is in all respects true and correct, and that it is supported by proper vouchers; that the residue of money in the hands of the executor at the time of filing said account was $1,035.-65; that since the rendition of said account ——— has been received by the ———; that the sum of $———

has been expended by h— as necessary expenses of administration, the vouchers thereof, together with a statement of such disbursements, are now presented and filed, and said statement is now settled and allowed and the payments are approved by this Court; that the estimated expenses of closing the estate will amount to $20.00 leaving a residue of $1,035.65.

And it appearing that all claims and debts against said decedent, all taxes on said estate, and all debts, expenses and charges of administration have been fully paid and discharged, and that said estate is ready for distribution, and in condition to be closed.

That said George Pardy died testate leaving him surviving, John Pardy and William Pardy, brothers of said deceased, and Miss Albertine Hasler, all of whom are legatees under the will of said decedent.

It is further ordered, adjudged and decreed, that the said final accounts of the executor be and the same are settled, allowed and approved, and that the residue of said estate hereinafter particularly described, and any other property not now known or discovered, which may belong to the said estate, or in which the said estate may have any interest, be, and the same is hereby distributed as follows:

The sum of $759.00 cash, be distributed to said William Pardy, John Pardy and Miss Albertine Hasler, one-third to each. That is to say, to each of said parties be distributed the sum of $253.00. That the sum of $759.00, aforesaid, being the amount received on the sale of the U. S. Bonds aforesaid. And that the sum

of $276.65 be, and the same is hereby distributed as follows: One-half of said sum, to wit, $138.32, to the said William Pardy, one-eighth of said sum, to wit, the sum of $34.58 to the said John Pardy; and to the said Albertine Hasler three-eighths of said sum, to wit, the sum of $103.74. All other property of said estate, be and the same is hereby distributed, in the proportion to each of said parties as last aforesaid. One-half to said William Pardy, and one-eighth to said John Pardy, and three-eighths to said Albertine Hasler.

The following is a particular description of the said residue of said estate, referred to in this decree, and of which distribution is now ordered as aforesaid. Letters patent of the Government of the United States, issued September 15th, 1885, No. 326,145, for a compressed air motor; and letters patent issued by the Government of Great Britain, in 1884, No. 14,635, for said compressed air motor. There is hereby distributed an undivided one-half interest in both said letters patent to said William Pardy; to said John Pardy, an undivided one-eighth interest therein; to said Albertine Hasler an undivided three-eighths interest therein.

Done in open court this 26th day of February, 1890.

WALTER H. LEVY,
Judge of the Superior Court.

[Endorsed]: Filed in open court Feby. 26, 1890. Wm. A. Davies, Clerk. By H. E. Hall, Deputy Clerk.

F. No. 127. Hayden Printing Co.

Office of the County Clerk of the City and County of San Francisco.

I, John J. Grief, County Clerk of the City and County of San Francisco, and ex-officio clerk of the Superior Court thereof, do hereby certify the foregoing to be a full, true and correct copy of the Decree of Settlement of Accounts and Final Distribution in the matter of the estate of George Pardy, deceased, now on file and of record in my office.

Witness my hand and the seal of said Court, this 13th day of May, A. D. 1904.

[Seal] JOHN J. GRIEF,
Clerk.

By E. S. Hawley,
Deputy Clerk.

(Endorsed.)

Complainants' Exhibit No. 4—L. L.

Eureka, Nevada, May 2nd, 1903.

In consideration of one dollar $1.00 to me paid by William Pardy of the city and county of San Francisco, State of California, I do hereby sell and assign to the said William Pardy all my right, title and interest in and to the Letters Patent of the United States No. 434677. Patented to William Pardy, Executor, dated August 19th, 1890, for a Pipe Riveting Machine together

with all rights of action which have accrued to me by reason of the infringement of said letters patent.

Witness my hand this 2nd day of May, 1903.

JOHN PARDY.

Witness:

I. C. C. WHITMORE.

(Endorsed.)

Complainants' Exhibit No. 5—L. L.

Los Angeles, Cal., Oct. 10, 1887.

Dear Pardy,

Your letter 8th received. Glad to hear you are sure you can make the machine. Go ahead with all possible dispatch. don't lose any time. My men are all in a stew to-day—have postponed their strike for one week.

I want the trial made of this machine with dispatch & am ready to pay the bill whether or not the venture will work. If you should fail in this maybe in another you would not. I know you will do your best and under any circumstances I shall feel you have done your best. Send any good men you can get.

Am glad Mr. Vogel endorses you, Mrs. Hooker would wish to be kindly remembered if she knew I was writing.

Faithfully,

J. D. HOOKER.

(Endorsed.)

Complainants' Exhibit No. 6—L. L.

Los Angeles, Cal., Oct. 14, 1887.

George Pardy, 402 Mty. St., San Francisco.

Dear Pardy:

Herewith please find C. K. to your order for 300.XX the strip of Iron with holes will go by express tonight to Robbins. Dont let Robbins into your confidence he is after this very thing. You are quite right in your suspicion as to the matter of Sam's leaking. he will work against everything to take place of men. Hence it will hardly do to trust anything whatever to him. He will make the machine a failure of he can depend upon that—we wont let him however. The Jardine punch has been made to exactly conform to the Robbins punch—so only one strip will be sent. Doyle has not shown up.

Yours truly,

HOOKER.

The Jardine punch will punch 42 in plate. Robins only 36 in but both alike in space the number of holes in Jardin is 62 & in Robbins 54.

(Endorsed:)

Complainants' Exhibit No. 7—L. L.

Los Angeles, Cal., Oct. 20, 1887.

Dr Pardy

Can you give me any Idea as to power of engine I will need with these machines. will want to run (4) four of

them lathe &c beside my other machinery. Give me what information you can. Yours &c

J. D. HOOKER

(In pencil.) Evidence that H knew little if anything of the machine.

(Endorsed.)

Complainants' Exhibit No. 8—L. L.

Los Angeles, Cal., Oct. 22, 1887.

Dear Pardy

To yours 20th. It seems to me you should take into consideration making 8 10 & 12 inch Pipe first with this machine. I can't see how you can make large pipe on a small anvil or stake. Wont we want large machine & small machine for inst 4 in pipe takes 5 lb Rivet and 8 10 & 12 takes 10-rivet the power to crush which will be greater. Better consider the turning up of the pipe on the anvil with rivets in Will send Robbins the distance wanted if I can get at what he wants—4 in Pipe dia double Riveted will be $3\frac{7}{8}$ Sam says though cant tell until we can make a joint which we will do as soon as we can change punches—machine is very busy now Most of the work to be done will be on 30 inch Iron—Not 36 in Cant use 36 in larger than 16 in because round seamers can't get at it to put in rivets. Will send forward pipe to rivet as soon as we can get to it which will be Monday I think.

Push her and perfect her but be careful of every point as you go.

Faithfully

(Endorsed.) J D H

Complainants' Exhibit No. 9—L. L.

Los Angeles, Cal., Oct. 24, 1887.

Dr Pardy

Better not send any more men. We are full now & beside the machine will soon be done which we hope will drop out quite a number.

Robbins was just in here. Says he is on his way east to perfect a riveting machine. Is bound to build a machine that will rivet by hammering—Your going to him has aroused him to get up a machine of his own. Says he is bound to make something of the kind that will do the business.

Speed of our shaft is 140—Who in thunder is Wm. Hammond Hall? he has some good sense would like his letter. Am busy as can be

Rpy

J D H

Robbins got his dimension O. K.

(Endorsed.)

Complainants' Exhibit No. 10—L. L.

Los Angeles, Cal., Oct. 26, 1887.

Dr Pardy

Yours 22d You are right about 10 ib Rivet being largest and 4 in pipe being smallest we make Sam says double row 4 in will be 3⅞ will ship pipe forthwith. You can buy 5 & 10 lb Rivets there of Montague & Co or Dunham & Co. We want good round seamers two left yes-

terday for the north—will send strips if can get Sam to cut them today.

Hope your efforts will be as successful as you hope. Robbins says he goes East to see one of the best men in the known world in regard to making riveting—Told him did not want him to take up our ideas—say "well patent it then."

Yours

J. D. HOOKER

(Endorsed.)

Complainants' Exhibit No. 11—L. L.

Los Angeles, Cal., Oct. 29, 1887.

Dear Pardy

We wired you yesterday to see what could be done in getting a pair of shears—The big punch & shear machine combined from J. B. Jardine broke down through the middle I have made a partial payment to him—will have to throw the machine back upon him and have written through his brother Lew to see if he can furnish a pair of shears to off set the payment made, if he cannot will have to get a pair from Robbins.

I have a new building ready for your machine with shafting &c ready to go in place as soon as you will require. Sam got hurt at a fire hence delay in sending pipe samples. Will get them off soon. Hot down here now.

Yours

J D HOOKER.

(Endorsed.)

Complainants' Exhibit No. 12—L. L.

Los Angeles, Cal., Nov. 25, 1887.

Geo. G. Pardy, 402 Montgomery st., San Francisco.

Dear Pardy

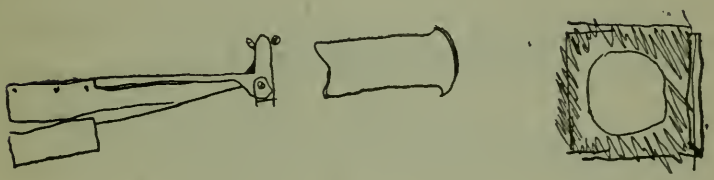
Here you have her $200—as you reques. Rah! Rah! Rah! for the machine if she works.

Faithfully

J D HOOKER.

Having lots strips made will take 5 to 8 lb rivets.

(Endorsed.)



Complainants' Exhibit No. 13—L. L.

Los Angeles, Cal., Dec. 23, 1887.

Dear Pardy

To yours of the 20th I will send you 500—Early next week—The delay and expense is O.K. if the machine will

prove a success. It has always seemed to me that the motion to crush the rivets should be like the movement of the die machine at the mint you know how nicely that has to work but you doubtless have investigated that movement.

The rivet heads inside the pipe must come up snug—they will gather any amount of stuff if they stick up too much.

I am short this week or would hand you the money by this mail.

Yours truly

J D HOOKER.

(Endorsed.)

Complainants' Exhibit No. 14—L. L.

Los Angeles, Cal., Dec. 28th, 1887.

Geo. Pardy, Esq., 402 Mty. St., San Francisco, Cal.

Dear Pardy

Herewith please find Draft to your order for 500. as per your request. I hope you will get the thing to perfection before you send it. You suit will be long passed Jany 1s before we get the thing running I have the boiler and engin to your place as soon as I can get men to place it.

Yours truly,

J. D. HOOKER.

(Endorsed.)

Complainants' Exhibit No. 15—L. L.

Los Angeles, Cal., Jan. 5th, 188—.

do everything you think should be done then send her forward—we will put it to a working test in short order. The engine & boiler we have as I before wrote you—will lose no time in getting them in place

Put all the finishing touches upon the Riverter Make its fine appearance taking—that is something to the workmen you know. Do everything you think should be done & then send her forward. but in doing this don't delay too long. I cannot possible go up Am too busy. Will send you all the pipe you want. The expense cuts no figure on the first machine—plan a little for a single riveter, with holes $\frac{7}{8}$ from centers—I think we must have one or two of this size to set a 5″ rivet in 4-5 & 6 in pipe light iron say #18 & 16.

I am determined to give these machines a good trial build a second one as soon as you feel yourself justified in doing so.

Very truly with a Merry Christmas,

JNO D HOOKER.

My wife joins in the Merry Christmas.

(Endorsed.)

Complainants' Exhibit No. 16—L. L.

Los Angeles, Cal., Jany. 19, 1888.

Dear Pardy

Yours 17th received. Better push another riveter ahead at once with a rush I want it P. D. Q. The one you shipped has not arrived. No advices of it. Will not keep you any longer than necessary. Are you to send Pete to run it and set it up. If you have Robbins build these tie him up in some way that he will not build for any one else—The Lacy crowd will be after him at once. The tester should take Pipe from 4 to 30 inches dia and longer (20) twenty feet shortest 2½ feet.

Rush the second machine ahead and Shears want them very quick.

You.

J. D. HOOKER.

(Endorsed.)

Complainants' Exhibit No. 17—L. L.

Los Angeles, Cal., Feb. 1, 1888.

Dear Pardy

I find my new Engine will run the main shaft 140 Rev. will this effect your Riveter so as to impare its use if so will have to put in a counter shaft please advise by wire.

Yours truly,

J. D. HOOKER,

(Endorsed.)

Complainants' Exhibit No. 18—L. L.

Los Angeles, Cal., Feby. 17, 1888.

Dear Pardy

I have yours of the 9th. Well may be I get shook up once in a while. There is going to be lots of work in the future but these hounds go in and knock all the profit there is in a job out of it. However I think they will tire of it by and by. I dont propose any one shall have those machines if I can help it I have the frame and shafting up for the new one and will have work for it to do as soon as in place. There are some big schemes ahead & with these machines we can win There is one big one which if it goes through will make you some money for you will have to aid me in it if I get it. I wrote you about going to the mountains. Will you leave the schoolmarm for a time and that dusty city it will benefit you sure.

Again as to the machines I understand I am to own and control the patent upon them paying you a fair and reasonable sum for all your time and labor, and what will be just and fair between us. I grant you ten times the patience I have—that is what I lack hence I need just such an element with me when things are moving.

I hope the machine & punch will show better work than has ever been done in making pipe. I learn the Risdon has a million & 1/4 contract with the Spring Valley for pipe to supply Oakland and Alameda.

You must arrange for pulleys. My shaft is 2 in The machine will set just as the first one is placed.

Faithfully

J. D. HOOKER.

(Endorsed.)

Complainants' Exhibit No. 19—L. L.

3/19/88

Dear Pardy

11/ My men are all on the rampage down here. Everything is off but the Riveter. George is running her at the rate of 25 Joint per hour today—the work is O. K. Sam says George uses so much oil one joint will slip through the other. The men have written "Non Union" over the riveter they hate it I tell you. Now they are off they will stay so until the come back satisfied to behave. I am in no hurry to have them come. Can take their time. How long before you can have a machine to rivet #12 or 14 Iron will have a lot to make right away.

Faithfully

J. D. HOOKER.

(Endorsed.)

Complainants' Exhibit No. 20 —L. L.

Los Angeles, Cal., Mch. 16, 1888.

Geo. Pardy Esq.,

Dear Pardy: To yours of the 13. 1st The main crushing wheel seem to be O. K. in every particular so far as I can see. No indentations.

2d. All four small wheels are O. K.

3d. Gear Wheel work much easier and smoother since you were here seem O. K.

5. Side plates on main bar wear down with outer edge turning over just a little. George has made two new ones but they are too high so machine does not set rivet down as it should. Has gone back to the old ones which he has finished down. the work is finest yet turned out—it is almost perfect would be if punches worked without breaking.

6. Have sent you sets broken all of them—

7th. Under side of top beam does not show wear.

8. Steel pc on mandril is as you left it.

9. Cant say where you can improve except in holding down bar at end where George props it with stick of wood.

10. You must make many more sets this seem to be a weak point—bad sets show bad work at once.

11. Shipping rig seems to act O. K. Have seen George set machine moving then turn to setting rivets paying no attention to machine until it stopped itself.

12. One new set busted today. Hope they will work better.

What progress have you made with new machine. I have about 65,000 feet of #12 & 13 (B. G.) pipe from 6 to 12 inch which I wish to make on machine. Will want it as soon as you can turn it out.

Faithfully

JNO D. HOOKER.

(Endorsed.)

Complainants' Exhibit No. 21—L. L.

Los Angeles, Cal., Mch. 24, 1888.

Dear Pardy

All our men are on the rampage except the yard men, it is both on a/c of wages and machine. I am running machine on 6-in. pipe. Sam tried his best to make a bad job of it finds fault with it & is an intense enemy. the machine does well and when we get one or rather two or three more going it will make a bulwark they cannot over throw—times are dull and grow worse and worse. Money awful tight. Shall I have pinion gear made before a brake—seems to me you had better have pattern made there and sent here—it costs so much here. I have a man to take Georges place if he gets knocked out—Sorry you think you got malaria here. How much did you get any way? Am glad Robbins takes an interest hope he will produce a bang up pc of work.

Maybe I had better follow your instructions as to the gear here. Only Llewelyn charges like a house afire.

Sam is going to buck us Monday morning—we will let him out I think—Dont care to do much any way now.

Faithfully,

JNO. D. H.

These fellow are in full blast on my coating.

(Endorsed.)

Complainants' Exhibit No. 22—L. L.

Los Angeles, Cal., Mch. 29, 1888.

Dear Pardy.

The prime cause of this strik is the machine. The round seamers combined not to put the machine pipe together—they had it all cooked for us but we will carry our point. Have taken on a new crew and are getting on fairly well. Sam did his level best against us and is out—wants to get back but I am afraid of him. They have run all our old men out but we have taken up smiths and machinists and find them apt and quick to grasp the riveting. The machine must go in spite of everything. The new sets work fine. George is highly pleased with them. Some how he does not get all the joint exactly square. Every now and then he runs out a joint with rivets set on a slant—he says the joint slides a trifle sometimes.

Will send you a sketch of Hydrant tomorrow. Push the machine ahead as rapidly as possible will want it before you can get it out.

Simonds telegraphed to you about a man named Redding who is a first class fitting maker hope you found him or some one who does know him. This machine is going to take the lead in this business.

Yours faithfully,

J. D. HOOKER.

(Endorsed.)

Complainants' Exhibit No. 23—L. L.

Los Angeles, Cal., Apl. 10, 1888.

Dear Pardy

When may we expect a new Riveter we have work depending upon it and want to get at it with the least possible delay Kindly advise me at once what the prospects are.

Faithfully,

J. D. HOOKER.

Have you been and you ill?
long time since we heard from you.
(Endorsed.)

Complainants' Exhibit No. 24—L. L.

Los Angeles, Cal., Apl. 11th, 1888.

Dear Pardy.

To your of the 9th. If things are dull up there there can be no use in opening up in the pipe business now. It will be safe to do it within a year from now maybe. Montague has a factory on Beal St and is working 5 of our round seamers Trade down here has fallen off. somewhat yet I think the outlook good for a years business.

About the pump I left it entirely with you to purchase what you pleased You know better than I do we must have the machine completed right away.

George is doing good work with this riveter though he breaks too many sets by crushing it down too hard

I have him now where he will do well I am sure. Hope to see you soon

Faithfully,

HOOKER.

(Endorsed.)

Complainants' Exhibit No. 25—L. L.

Los Angeles, Cal., April 30, 1888.

Dear Pardy

Yes, we want more sets. Geo says the blue ones are best. he has written you some of the old ones are yet in use. There are no new defects that I know of. the machine is doing the best work it ever did. Geo is turning out 230 joints per day—I have kept after him until now he is doing careful and good work—he has been very careless and did not get all the riveting true, claiming the rivets were uneven but it was all his fault from lack of care. We are running on #14 iron and the work is fine—24 in will do for the 2d machine with 3 feet lengths—Am anxiously waiting to hear from that patent business—have not hear a word since we sent it on. I should be glad to pay so you could push this machine ahead.—I will want another Robbins punch if I could get any satisfaction out of him—he is a very unsatisfactory man to get work through.

Wish I could do something to help you keep up with the procession you have Mrs. Hooker's sympathy I can assure you. Faithfully,

J. D. HOOKER.

(Endorsed.)

Complainants' Exhibit No. 26—L. L.

Los Angeles, Cal., July 20th, 1888.

Dear Pardy

Send machine dont keep it for me I may not go to S. F. but to Tahoe direct—beside I have a machinist here ready to put it in place.

There are some large jobs to be let along the Sierras. I dont want to sell these machines can make more out of the work I want to own the whole business paying you fairly & squarely what would be right beside if we get these contracts there will be a chance for you to make more money this way than in mfrg machines Could I control the coating & machines it would be worth thousands every year—Montague is trying to get a machine for this Lacy outfit here I would not be very nice to have my enemy at once have all the things I have studdied and wrought up—it is bad enough to have them cut me out with this coating to give them a machine would ruin my business entirely. I would quit before I would follow it—They bid to cost for work hoping to bust me out and agree to do all I will do—by putting in "testing pipe" I got the Riverside work at 10% above their bid—Their object is ruin—I am in doubt whether or not would not be money in my pocket to move away at once.

Faithfully,

JNO D. H.

(Endorsed.)

Complainants' Exhibit No. 27—L. L.

Los Angeles, Cal., May 6, 1889.

Dear Pardy

Your letter of the 2d is at hand—Herewith please find Dft for 22.50 as you request I am very glad to know you will get the Pipe Coating patent. I would like the patent as soon as it can be had because I am getting up a catalogue & would like to embody it in the book When I was in the city you were sick and I was very busy beside I came away unexpectedly,—were you a well man I should be inclined to be—as Tates says—"Cross" with you for the last few letters you have written me—but a sick man is not to blame for being irritable & out of temper. I propose to do the square thing with you—I do not think you ever knew me to do otherwise. I shall be in S. F. shortly when I will see you—You have not paid out any of your money for me. I will make it plain to you

Rfy

HOOKER.

Not a shop here is turning a wheel—no business & little prospect.

(Endorsed.)

Complainants' Exhibit No. 28—L. L.

Los Angeles, July 23/89.

Dear Pardy

We secured an order for 1½ miles of pipe & I had concluded to run it through the bull if I could get a wheel —Booth shrunk a steel band band upon a broken roller but it broke plumb through. The little bull is useless —see letter herewith. this 2000 feet was made on the little machine & will have to come up as useless I fear. The man who did the work claims now that the indentations in the wheel did not permit the set to be forced down uniformly hence the leaking of all the straight seam.—I want to give the big machine one more trial with a perfect wheel and new support steel strip—The wheel Robbins sent down we returned to him It did not stand up for a single day.—The first wheel on the little machine did the best work. Am sorry you cant get this wheel made right away—while you are at it had you not better get two made for one may burst up with a day or two's run where as another might stand up to the work. There is a large amount of money in these machines. I would like to utilize the plant if possible.

Robbins sent me some side bars—of no earthly value. they are as soft as cast iron. Cut like putty. I distinctly told Robbins himself to make them the very best that could be—certainly like the first—but he did not do it.

Rfy

HOOKER.

(Endorsed.)

Complainants' Exhibit No. 29—L. L.

Los Angeles, Cal., July 24, 1889.

Dear Pardy

I have your favor of the 22d Am sorry to learn of your ill health. Herewith please find $100—You may need it before I go up—I wrote you yesterday at length. One has to have more patience than I have to wait on Robbins—There is no use for him to do anything unless first class and then he fails I hand you his letter for your inspection Kindly return it to me. Looking for good news from you as regards health I am

Faithfully,

J. D. HOOKER.

(Endorsed.)

United States Circuit Court, Ninth Circuit, Southern District of California, Southern Division.

WILLIAM PARDY and A. HASLER,
Complainants,
vs.
J. D. HOOKER COMPANY (a Corporation),
Defendant.

Assignment of Errors.

Now come the complainants, William Pardy and A. Hassler, and file the following assignment of errors, upon which they will rely upon their appeal to the Circuit Court of Appeals of the Ninth Circuit.

I.

The Court erred in holding and deciding that George Pardy was not the original and first inventor of the improvements in riveting machines described in the letters patent sued on herein.

II.

The Court erred in holding and deciding that the letters patent sued on in this action were void.

III.

The Court erred in dismissing complainants' bill of complaint.

IV.

The Court erred in not giving judgment for the complainants as prayed for in their bill of complaint.

HAZARD & HARPHAM,
Solicitors for Complainants.

G. E. HARPHAM,
Counsel for Complainants.

[Endorsed]: No. 1125. United States Circuit Court, Ninth Circuit, Southern District of Calif., Southern Division. William Pardy and A. Hassler, Complainants, vs. J. D. Hooker Company (a Corporation), Defendant. Assignment of Errors. Filed Mar. 5, 1906. Wm. M. Van Dyke, Clerk. Chas. N. Williams, Deputy. Hazard & Harpham, Solicitors for Complainant.

[Endorsed]: No. 1322. United States Circuit Court of Appeals for the Ninth Circuit. William Pardy and Albertine Hasler, Appellants, vs. J. D. Hooker Company, a Corporation, Appellee. Transcript of Record. Upon Appeal from the United States Circuit Court for the Southern District of California.

Filed April 2, 1906.

F. D. MONCKTON,
Clerk.